

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 430 (REV. 7/90)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		91-0117-01N		

For use by Office of Administrative Law (OAL) only

1991 JAN 17 AM 10:33

OFFICE OF
ADMINISTRATIVE LAWENDORSED
APPROVED FOR FILING

FEB - 1 1991

Office of Regulations and Law

NOTICE

AGENCY

State Department of Social Services

AGENCY FILE NUMBER (If any)

RDB #0790-28

FILED
In the office of the Secretary of State
of the State of California

FEB 01 1991

At 4:32 o'clock P.M.

MARCH FONG EU, Secretary of State

By Michele L. Williams
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND
	See attached
MPP	
TITLE(S)	REPEAL

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Jim Rhoads, Assistant Chief, Regulations Development Bureau

TELEPHONE NUMBER

445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

1-14-91

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

3/11/91 12:20:00

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

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40-125, 40-185, ~~40-440~~, 42-720, 42-800, 42-801, 69-201, 69-203,
69-204, 69-205, 69-206, 69-207, 69-208, 69-209, 69-210, 69-211,
69-212, 69-214, 69-215, 69-219, and 69-221.

corrected
request
BE 2-1-91

Washington, D.C. 20447

NOV 22 1989

TO: STATE REFUGEE COORDINATORS

HEADS OF STATE AGENCIES ADMINISTERING REFUGEE
RESETTLEMENT PROGRAM (RRP)

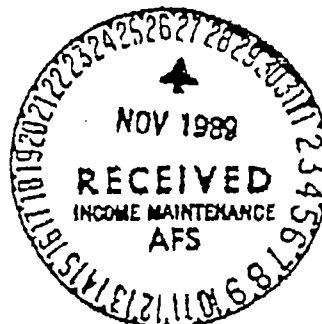
SUBJECT: Change in Refugee Program Reimbursement Necessitated by
Funding Available Under the FY 1990 Appropriation --
Effective January 1, 1990

On November 20, 1989, Congress passed the HHS appropriation for
FY 1990 (H.R. 3566) which was approved by the President on
November 21, 1989.

The appropriations act makes available to the Office of Refugee
Resettlement (ORR) a total of \$210,000,000 for funding to the
States for cash and medical assistance and related State
administrative costs (CMA costs) for the year October 1, 1989 -
September 30, 1990, through a specific appropriation language
earmark.


Assistance under section 412 of the Immigration and Nationality
Act, ORR's authorizing legislation, is provided only "to the
extent of available appropriations" (section 412(a)(1)). This is
reflected in ORR's regulations at 45 CFR 400.202, "Extent of
Federal funding," which provide that the extent of Federal
funding is "[s]ubject to the availability of funds."


The funds appropriated are not sufficient to enable ORR to
continue to fund States for assistance to refugees during their
first 24 months in the United States, or to cover all types of
CMA costs during refugees' first 12 months in the U.S., for the
duration of FY 1990. Based on estimates of State costs for FY
1990, ORR has concluded that the available funds will be
sufficient to cover CMA costs only to the extent specified below
for the remainder of the fiscal year (January 1, 1990 - September
30, 1990).



Therefore, effective January 1, 1990, a State may claim against its CMA grant for those allowable costs applied according to the following sequence of priorities, ranked from high to low:

1. Program for unaccompanied minors, including any allowable administrative costs of the program for unaccompanied minors.
2. Provision of refugee cash assistance (RCA) and refugee medical assistance (RMA) during a refugee's first 12 months in the U.S. as defined by 45 CFR 400.203(b) and 400.204(b), including the allowable administrative costs of providing RCA and RMA.
3. Allowable administrative costs incurred for the overall management of the State's refugee program in accordance with 45 CFR 400.13(c) (published in the Federal Register at 54 FR 5476, February 3, 1989).
4. Allowable State costs of AFDC, Medicaid, SSI, and foster care payments under title IV-E of the Social Security Act for eligible refugees. We estimate that available funds will limit Federal reimbursement for State costs to a refugee's first 4 months in the U.S.
5. Costs of case management, allowable in accordance with 45 CFR 400.13(d) (ibid.) during a refugee's first 12 months in the U.S. in the case of an RCA recipient or during a refugee's first 4 months in the U.S. in the case of an AFDC recipient.


Michael Sturman
Associate Administrator
for Financial Management
Family Support Administration


Philip A. Holman
Acting Director
Office of Refugee Resettlement
Family Support Administration

cc: FSA Regional Administrators
Director, ORR Florida Office

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

These proposed regulations implement editorial changes deleting the Refugee Demonstration Project (RDP) and other changes necessitated by the federal reduction in funding [Department of Health and Human Services (DHHS) appropriation for Federal Fiscal Year (FFY) 1990] and the current amount of time refugee cash assistance is fully funded (time-eligibility). The reduction was issued in a Federal Office of Refugee Resettlement (ORR) memorandum effective January 1, 1990. The regulations (45 CFR 400.202) provide that the extent of federal funding is "subject to the availability of funds," and the ORR memorandum provides only four months of full federal funding (time-eligibility) for Aid to Families with Dependent Children (AFDC) eligible recipients.

The reduction in time-eligibility to four months forced an immediate phasedown in the RDP program, since RDP was for AFDC-eligible refugees funded by ORR, and RDP applicants had to have at least six months of time-eligibility in order to be granted RDP [Manual of Policies and Procedures (MPP) 69-206.21(g)]. Hence, there were no more RDP cases by April 1, 1990, and RDP references are being deleted. THESE REGULATORY CHANGES ARE ELIGIBLE TO BE PROCESSED UNDER OFFICE OF ADMINISTRATIVE LAW CODE OF REGULATIONS TITLE 1, DIVISION 1, CHAPTER 1, SECTION 100 (HEREAFTER REFERRED TO AS "SECTION 100") APPLYING TO SIMPLIFIED PROCESSING OF "CHANGES WITHOUT REGULATORY EFFECT". Sections where RDP is being removed are: 40-125.6; 40-185.3; 41-440.41; 42-720.13; 60-201.3; 60-201.4; 69-201.41; 69-203.31; 69-203.32; 69-203.42 and handbook; 69-204.3-.332; 69-205.3; 69-206; 69-206.1-.112; 69-206.211; 69-206.211(a)-(g); 69-206.22; 69-206.51-.54; 69-207.1-.2; 69-208.11; 69-208.14-17; 69-208.31-.32; 69-209.1-.2; 69-209.36; 69-210.1; 69-210.15; 69-210.21; 69-210.232-.233; 69-211; 69-211.3; 69-211.6; 69-212; 69-214; 69-214.5-.9; 69-215; 69-219.22; 69-219.221; 69-219.223; and 69-221.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

These proposed regulations implement editorial changes which eliminate obsolete provisions and obtain consistency with provisions already in AFDC, GAIN, and refugee regulations, all in sections dealing with Refugee Cash Assistance (RCA) recipients who are receiving Greater Avenues for Independence (GAIN) services. THESE ARE SECTION 100 CHANGES APPLYING TO SIMPLIFIED PROCESSING OF "CHANGES WITHOUT REGULATORY EFFECT."

Section 40-125.6

Specific Purpose:

This section is being deleted to remove reference to the Refugee Demonstration Project (RDP). RDP is no longer in existence.

Factual Basis:

This is required by the RDP phaseout effective April 1, 1990.

Section 40-185.3

Specific Purpose:

This section is being deleted to remove reference to RDP.

Factual Basis:

Same as Section 40-125.6

Section 41-440.41

Specific Purpose:

This section is being amended to remove reference to RDP.

Factual Basis:

Same as Section 40-125.6

Section 41-440.411

Specific Purpose:

The current reference to Section 41-440.411 refers to a section that no longer exists due to a previous renumbering. The reference is being corrected to Section 41-440.412, which contains the intended wording.

Factual Basis:

This is a change without regulatory effect, conforming to Office of Administrative Law (OAL) standards regarding consistency and clarity.

Section 42-720.13

Specific Purpose:

These sections are being revised to remove reference to RDP.

Factual Basis:

Same as Section 40-125.6

Section 42-720.135 and Handbook Sections 42-720.135(a) and (b)

Specific Purpose:

These sections are being deleted to remove references to RDP.

Factual Basis:

Same as Section 40-125.6.

Section 42-800

Specific Purpose:

This Chapter is being revised to specify that "RCA" refers to the Refugee Cash Assistance Program.

Factual Basis:

This is a change without regulatory effect, conforming to Office of Administrative Law (OAL) standards regarding clarity.

Section 42-801.2

Specific Purpose:

This section is being revised to renumber a reference which had been renumbered in previous regulatory change package (RDB #1189-44, effective April 2, 1990).

Factual Basis:

This is a change without regulatory effect, conforming to Office of Administrative Law (OAL) standards regarding clarity.

Section 69-201.3

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

This revision is necessary to comply with a change in Refugee Program reimbursement necessitated by funding available under the FY 1990 (HR 3566) appropriation. As a result, the Refugee Demonstration Project was fully phased out by April 1, 1990, since federal reimbursement for the State/County portion for refugee cash aid (non-IV-A) was reduced to four months of time-eligibility for AFDC eligibles. AFDC eligibles were formerly served by the RDP program, but no longer could be served by the program since MPP 69-206.21(g) "requires all RDP applicants to have at least six months of time-eligibility remaining."

Section 69-201.4

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-201.41

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-203.12

Specific Purpose:

This section is being revised to correct a typographical error by changing an erroneous acronym, INS, to the correct acronym, INA.

Factual Basis:

The revision is a change without regulatory effect and is only for the purpose of clarity and accuracy.

Section 69-203.14

Specific Purpose:

This section is being revised to specify that INS is an acronym for Immigration and Naturalization Service.

Factual Basis:

The revision is a change without regulatory effect and is only for the purpose of clarity and accuracy.

Section 69-203.31

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-203.331 (sic)

Specific Purpose:

This section is being renumbered to correct a typographical error by changing 69-203.331 to 69-203.311.

Factual Basis:

OAL review standards for consistency (in numbering subordinate sections).

Section 69-203.32

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-203.42 and HANDBOOK

Specific Purpose:

This section is being deleted to eliminate reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-204.3, .31, .311, and .312

Specific Purpose:

These sections are being deleted to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-204.32

Specific Purpose:

This section is being deleted to eliminate all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-204.33

Specific Purpose:

This section is being deleted to eliminate all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-204.331

Specific Purpose:

This section is being deleted to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-204.332

Specific Purpose:

This section is being deleted to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-205.3

Specific Purpose:

This section is being changed to remove all reference to RDP. An editorial change, and a change in the order of the sentences in this section, have also been made to clarify that refugee eligibility must first be determined for: 1) federal AFDC, 2) RCA, and then 3) state-only AFDC-U.

Factual Basis:

The factual basis for the elimination of RDP is the same as Section 69-201.3. The editorial change and change of sentence order is necessary to clarify cash assistance eligibility according to 45 CFR 400.203 (Federal Register Vol. 51, No. 20, January 30, 1986.

Section 69-206

Specific Purpose:

This section is being revised to remove any implied reference to RDP by specifying that the section now only refers to RCA.

Factual Basis:

Same as Section 69-201.3.

Section 69-206.1

Specific Purpose:

This section is being revised to remove reference to RDP and specify that the section only deals with RCA eligibility.

Factual Basis:

Same as Section 69-201.3.

Section 69-206.11

Specific Purpose:

The text of this section is being deleted to eliminate all reference to RDP. Current Section 69-206.12 will be renumbered and inserted here.

Factual Basis:

The deletion is for the same reason as Section 69-201.3. The renumbering is for the purpose of restructuring only and will have no regulatory effect.

Section 69-206.111

Specific Purpose:

The text of this section is being deleted to eliminate all reference to RDP. Current section 69-206.121 will be renumbered and inserted here.

Factual Basis:

The deletion is for the same reason as section 69-201.3. The renumbering is for the purpose of restructuring only and will have no regulatory effect.

Section 69-206.112

Specific Purpose:

The text of this section is being deleted to eliminate all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-206.211

Specific Purpose:

This section is being deleted to remove reference to RDP.

Factual Basis:

The deletions of references to RDP is the same as section 69-201.3.

Section 69-206.211(a) through (g)

Specific Purpose:

This section is being deleted to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-206.212

Specific Purpose:

This section is being renumbered to 69-206.211 to reflect the deletion of the current Section 69-206.211.

Factual Basis:

The renumbering is a change without regulatory effect and is only for the purpose of restructuring.

Section 69-206.22

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3

Section 69-206.51

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-206.52

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-206.53

Specific Purpose:

This section has been revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-206.54

Specific Purpose:

This section has been revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-207.1

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-207.2

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-208.11

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-208.14-.17

Specific Purpose:

These sections are being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-208.31

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-208.32

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-209.1

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-209.2

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-209.34

Specific Purpose:

This section is being revised to correct a typographical error.

Factual Basis:

This is an editorial change without regulatory effect.

Section 69-209.36

Specific Purpose:

This section is being revised to remove reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-210.1

Specific Purpose:

This section has been revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-210.15

Specific Purpose:

This section has been revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-210.21

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-210.232

Specific Purpose:

This section is being deleted to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-210.233

Specific Purpose:

This section is being deleted to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-211

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-211.3

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-211.6

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-212

Specific Purpose:

This section is being revised to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-214

Specific Purpose:

This section is being amended to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-214.5

Specific Purpose:

This section is being amended to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-214.6

Specific Purpose:

This section is being deleted because it discusses circumstances before the date of September 30, 1989, and therefore is obsolete.

Factual Basis:

The text of this section is no longer necessary, and its removal is consistent with OAL standards of necessity.

Section 69-214.7

Specific Purpose:

This section is being amended to remove all reference to RDP. Reference to the date of September 30, 1989 was also removed since it referred to the original phase-down date of RDP. This section is also being renumbered to 69-214.6 to reflect the deletion of the current 69-214.6.

Factual Basis:

Same as Section 69-201.3. The renumbering is a change without regulatory effect and is only for the purpose of restructuring.

Section 69-214.8

Specific Purpose:

This section is being renumbered to 69-214.7 to reflect the deletion of current section 69-214.6.

Factual Basis:

The renumbering is a change without regulatory effect and is only for the purpose of restructuring.

Section 69-214.9

Specific Purpose:

This section is being deleted to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-215

Specific Purpose:

This section is being amended to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-219.22

Specific Purpose:

This section is being deleted to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-219.221

Specific Purpose:

This section is being deleted to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-219.222

Specific Purpose:

This section is being deleted to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Section 69-221

Specific Purpose:

This section is being amended to remove all reference to RDP.

Factual Basis:

Same as Section 69-201.3.

Amend Section 40-125 to read:

40-125 PROCESSING APPLICATIONS, REAPPLICATIONS,
AND RESTORATIONS

40-125

1. County Responsibility--General Requirements (Continued)

16 Referral of Refugee Applicants

Refugee applicants eligible for a federal AFDC grant shall be referred to the Refugee Demonstration Project as their primary source of aid if they meet the criteria in MPP Section 69-206.

Amend Section 40-185 to read:

40-185 INTERPROGRAM TRANSFERS (Continued)

40-185

- 13 Federal AFDC cases which contain refugees who meet the criteria found in MPP Section 89+204/31 shall be transferred interprogram to the Refugee Demonstration Project.

Amend Section 41-440 to read:

41-440 FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM
(Continued)

41-440

.4 Connection with the Labor Force - Federal AFDC-U

.41 The principal earner, shall have a connection with the labor force. / *except when he/she is converting from the Refugee Demonstration Project with an established labor force connection (see Section 69-204.132)*

.411 By meeting one of the following requirements of (a), (b), or (c) Section 41-440.412 below in six calendar quarters within any 13-calendar-quarter period which ends within one year before the quarter of application or transfer to federal AFDC-U occurs; see (Section 41-440.13):

Amend Section 42-720 to read:

42-720 THE GAIN COUNTY PLAN

42-720

.1 Plan approach (Continued)

.13 The primary GAIN participants are AFDC applicants and recipients. The county may also provide services to refugees receiving or applying for Refugee Cash Assistance (RCA), ~~Refugee Demonstration Project (RDP)~~ and/or to General Assistance applicants and recipients, except that no funds appropriated for GAIN shall be used to serve these individuals.

.131 If a county elects to serve these individuals, the county shall maintain separate accounting records of expenditures for AFDC applicants and recipients and for RCA, ~~RDP~~ and General Assistance applicants and recipients.
(Continued)

133 If a county elects to serve RDP program applicants and recipients, MPP Chapter 42-700 provisions shall apply to these individuals.

HANDBOOK BEGINS HERE

121 ALL AFDC program regulations apply to RDP recipients except:

111 The \$30 and 1/3 earned income disregard (see MPP 44-111/23 and 89-207/11) and:

121 The 100-hour work rule (see MPP 41-440/7 and 89-208/11).

101 RDP recipients must accept any appropriate job referral/offer regardless of the wage (see MPP Section 89-208/11).

HANDBOOK ENDS HERE

Amend Chapter 42-800 to read:

CHAPTER 42-800 GAIN REQUIREMENTS FOR REFUGEE CASH ASSISTANCE
(RCA) PARTICIPANTS

Amend Section 42-801 to read:

42-801 GAIN REGISTRATION FOR RCA GAIN PARTICIPANTS
(Continued)

42-801

- .2 If the individual fails or refuses to register, the procedures in Sections ~~69-208/77~~ 69-209 and 69-210 shall apply.

Amend Section 69-201 to read:

69-201 GENERAL STATEMENT (Continued)

69-201

- .3 County Welfare Departments (CWD) shall determine the eligibility of refugees in RRP for AFDC/ ~~the Refugee Demonstration Project program (RDP)~~ or Refugee Cash Assistance (RCA). Eligibility for SSI/SSP shall be determined by the Social Security Administration. The CWD shall administer these programs according to federal policy under the supervision of DSS for financial assistance and social services, and the State Department of Health Services (DHS) under interagency agreement with DSS for medical assistance.
- .4 All current AFDC program regulations apply unless specifically superseded by ~~the RDP~~ or RCA regulations contained herein.
 - .41 All provisions of Chapter 42-700, except as otherwise specified, apply to ~~RDP~~ and RCA-GAIN participants. In addition, RCA-GAIN participants must follow requirements contained in Chapter 42-800.

Amend Section 69-203 to read:

69-203 DEFINITIONS

69-203

.1 For purposes of determining eligibility for cash and medical assistance and social services under RRP, the following persons have been identified by the Federal Government as meeting the definition of a refugee: (Continued)

.12 An individual from Cuba who entered the United States on or after October 1, 1978, and was paroled under Section 212(d)(5) of the ~~IM§~~ INA as is indicated on Form I-94. If the Form I-94 was issued on or after April 21, 1980, it must clearly indicate that the person has been paroled as a refugee or asylee. (Continued)

.14 (Continued)

Conditional entry status under Section 203(a)(7) is not related to the status which Immigration and Naturalization Service (INS) has granted to certain "Cuban/Haitian Entrants" who are not eligible under RRP. (Refer to Chapter 69-300.) (Continued)

.3 Children of Refugees

.31 In a number of cases, children have been born in the United States to refugee parents, or have been born to a refugee and a United States citizen. These children are considered to be United States citizens by birth. However, under the following circumstances, such children are eligible for assistance (AFDC, SSI/SSP, ~~RDP~~/ RCA, and medical assistance) and social services funded under RRP:

.3~~1~~11 Children born in the United States of refugee parents are eligible for cash and medical assistance and social services through RRP. Such children are to be included in the parent's case. (Continued)

.32 United States citizen children born of a refugee and a United States citizen are not eligible for assistance or services funded by RRP if the household unit includes the United States citizen parent. In these situations, the refugee parent if eligible may receive RRP funded assistance (AFDC, SSI/SSP, ~~RDP~~/ RCA and/or medical assistance) and social services; and the United States citizen parent and the children if eligible may be aided under the regular (non-RRP funded) AFDC, SSI/SSP, medical assistance and/or social services programs.

Amend Section 69-203 to read:

69-203 DEFINITIONS (Continued)

69-203

.4 Cash Assistance (Continued)

142 For purposes of determining eligibility for RDP assistance, RDP means cash assistance provided to time-eligible refugee families who would otherwise be eligible for federal AFDC and who meet the requirements of sections 69-204/3 and 69-206/

HANDBOOK BEGINS HERE

RDP is provided under the authority of Public Law 98-473/ Amendment 6983 18 USC Section 1522(e)(1)(7) and required under Welfare and Institutions Code Section 17200/ Certain refugee families applying for assistance and determined eligible for federal AFDC benefits must participate in RDP rather than AFDC/ RDP provides cash assistance, based upon the AFDC payment standard, and a strong support service element designed to accelerate refugee acculturation and the development of employment skills/

HANDBOOK ENDS HERE

Amend Section 69-204 to read:

69-204 RESETTLEMENT AGENCY, SPONSOR AND COUNTY
RESPONSIBILITIES (Continued)

69-204

13 Conversion

131 CWDs shall transfer all current time-eligible refugees federal AFDC/FG/V cases to the RDP program by September 30, 1983 except as follows:

1311 Refugees federal AFDC cases whose caretaker relative (FG) or principal earner (U) has fewer than 12 months of remaining refugee time-eligibility as of July 1, 1983 shall be exempted from the conversion.

1312 Conversion of current federal AFDC RDP-eligible cases awaiting a fair hearing decision involving an AFDC eligibility issue shall be delayed until the fair hearing decision is reached. If still federal AFDC eligible, the case shall then be converted to the RDP unless the caretaker relative (FG) or principal earner (U) has fewer than six months of time-eligibility remaining.

132 At the time of conversion from federal AFDC/FG/V to the RDP, CWDs shall refer the nonexempt caretaker relative/principal earner to the central intake unit (CIU) for registration.

133 Refugee cases terminated from RDP as specified under sections 89-214.13, 89-214.16 and 89-214.18 shall be transferred to federal AFDC/FG/V via interprogram transfer if the RDP assistance unit is determined eligible. A new application is not required.

1331 Eligibility determinations shall include review of the number of hours worked and a redetermination of eligibility for the 830 and 1/3 disregard.

1332 Connection with the labor force established prior to transfer to RDP shall be retained, provided that a break in work has not occurred.

Amend Section 69-205 to read:

69-205 ELIGIBILITY FOR SSI/SSP AND AFDC PROGRAMS
(Continued)

69-205

.3 AFDC

Refugees who qualify for assistance under the federal AFDC program shall be aided under ~~the RDP if eligible under~~ Section 69-206. Other federal AFDC eligible refugees are to be aided under AFDC. For purposes of state-only AFDC-U program priority and transition, the CWD shall refer to refugee program instructions and directives issued by DSS. Those who do not qualify for the AFDC program shall have their eligibility determined for RCA per Section 69-206. The refugee has no option as to program preference. For purposes of State-only AFDC-U program priority and transition, the CWD shall refer to refugee program instructions and directives issued by DSS. The refugee has no option as to program preference.

Amend Section 69-206 to read:

69-206 ELIGIBILITY FOR REFUGEE DEMONSTRATION PROJECT
(RDP) OR REFUGEE CASH ASSISTANCE (RCA)

69-206

.1 RCA Eligibility Factors

111 ALL eligibility requirements for applicants for the Federal AFDC program/ Family Group (FG) or Unemployed Parent (UP) apply to RDP. Additional factors which must be considered in determining eligibility are: time eligibility (69-206.212); refugee status (69-203.1); income and resources (69-207); income eligibility (69-206.4); attendance in an institution of higher education (69-206.5); and registration/employment and employment-directed educational/training requirements (69-208). In addition to these factors, as a condition for receiving assistance, the applicant/recipient shall, if applicable, provide the name of his/her sponsor or responsible VOLAG.

1111 Refugees residing in areas in which subsidized employment-directed educational/training programs are not available shall not be required to participate in RDP.

1112 RDP eligibles residing in areas in which the GAIN County Plan provides for their participation in the GAIN Program shall be required to participate.

112 RCA

.11 Requirements of categorical relatedness applicable to the AFDC program are waived for assistance under RCA (see Section 69-203.41) and aid shall be granted without regard to the presence of children, age or number of hours worked. Factors which must be considered in determining eligibility are: time eligibility (69-206.212); refugee status (69-203.1); income and resources (69-207); income eligibility (69-206.4); attendance in an institution of higher education (69-206.5); and registration, employment and employment-directed educational/training requirements (69-208). In addition to these factors, as a condition for receiving assistance, the applicant/recipient shall, if applicable, provide the name of his/her sponsor or responsible VOLAG.

.1211 RCA eligibles who reside in areas in which the county plan provides for their participation in the GAIN program, shall be required to participate in GAIN. See Chapter 42-800 provisions.

.2 Eligibility Determination (Continued)

.21 Time-Eligibility

.1211 ELIGIBILITY FOR RDP IS LIMITED TO THE FIRST 24 MONTHS FOLLOWING THE DATE OF ENTRY IN THE UNITED STATES. The month of entry, as indicated on the INS FORM I-94, is counted as the first month.

(a) A refugee who is within the 24-month period following date of entry in the United States is referred to as an RDP time-eligible refugee for purposes of RDP funding.

(b) A refugee who has lived in the United States for more than 24 months is referred to as an RDP time-expired refugee for purposes of RDP funding.

(c) Inclusion of a case in the RDP shall be based upon the time-eligibility of the caretaker relative/principal earner.

(d) Children born in the United States of refugee parents (Section 89-203.13) shall be considered time-expired based on the most recently arrived parent's expiration date or at the end of the 24th month from the child's birth date, whichever occurs sooner. However, the entire assistance unit shall remain in the RDP case until the time-expiration of the caretaker relative/principal earner.

(e) The month of arrival, as indicated on the INS FORM I-94, or the month of birth is counted as the first month in determining time-eligibility.

11Y ALL recipient cases added under RDP shall be reviewed to determine if they are still RDP time-eligible based upon the time-eligibility of the caretaker relative/principal earner. RDP time-expired cases shall be added under other federal, state and/or county-funded programs, if otherwise eligible.

10Y ALL refugee applicant cases shall have at least six months of time-eligibility remaining to be eligible for RDP.

.21Z1 Eligibility for RCA is limited to the number of months required in Section 69-203.41 following the refugee's date of entry in the United States. The month of entry, as indicated on the INS Form I-94, is counted as the first month. Unaccompanied refugee minors (Section 69-213) are not subject to the time limitation.
(Continued)

.22 Redetermination of Eligibility

A periodic redetermination of RDP of RCA eligibility shall be made in accordance with the procedures outlined in AFDC regulations.

.3 (Continued)

.5 Full-time Student in an Institution of Higher Education

.51 Full-time students in a college program in an institution of higher education are not eligible for RCA of RDP. (Continued)

.52 Refugees who are enrolled and participating in training programs offered at an institution of higher education on a full-time basis as part of an employability plan developed by the CWD or its designee, when such training is less than one year, shall not be denied or discontinued from RCA of RDP.

.53 Refugees who are enrolled and participating in training programs offered at an institution of higher education on less than a full-time basis as part of an employability plan developed by the CWD or its designee, when such training is less than one year in duration, shall not be denied or discontinued from RCA of RDP when attendance in classes in a college program offered at the institution results in full-time status.

- .54 If an ~~RDP~~/RCA recipient is a professional in need of professional refresher training and other services in order to qualify to practice his/her licensed profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that such training: (Continued)

Amend Section 69-207 to read:

69-207 INCOME AND RESOURCES

69-207

.1 Income

Income shall be considered on the same basis as in the AFDC program for determining need and computing the assistance payment, except that the \$30 and 1/3 or, as applicable, the \$30 disregard and sponsored alien provisions as it applies in the AFDC program shall not be applied to ~~RDP of~~ RCA cases.

.2 Resources

Real and personal property limitations shall be those prescribed in AFDC program regulations, except that the sponsored alien provisions in the AFDC program shall not be applied to ~~RDP of~~ RCA cases.

Amend Section 69-208 to read:

69-208 REGISTRATION, EMPLOYMENT AND EMPLOYMENT-DIRECTED 69-208
EDUCATION/TRAINING REQUIREMENTS

.1 General Requirements

- .11 As an applicant for ~~RDP of~~ RCA, a refugee shall not, without good cause, within 30 consecutive calendar days immediately prior to the application for assistance, have voluntarily quit employment or have refused to accept an offer of employment or employment-directed education/training, or refused to participate in a CWD-approved or referred employment-directed education/training program. (Continued)
- .14 Unless the order of priority is waived by DSS, CWDs shall, when referring ~~RDP of~~ RCA applicants/recipients to education/training programs, give priority first to DSS-funded or DSS-approved programs and second to other CWD-approved programs. If no available education/training program can accept the applicant/recipient, the CWD shall refer the refugee to EDD for registration. Once the applicant/recipient has completed all available education/training programs, the CWD shall refer the refugee to EDD for registration.
- .15 The CWD shall refer all nonexempt (see Section 69-208.4) ~~RDP of~~ RCA applicants and recipients to the local DSS-funded or CWD-approved project(s) providing employment-directed education/training for refugees. Such training must meet local employers' requirements so as to be likely to lead to employment within the local labor market. CWD referrals shall be accomplished in accordance with instructions and directives issued by DSS.
- .16 As a condition of continued receipt of ~~RDP of~~ RCA, a nonexempt recipient who is employed 30 hours a week or less shall accept part-time employment-directed services, provided that such services do not interfere with the recipient's job.
- .17 As a condition of continued receipt of ~~RDP of~~ RCA, a nonexempt recipient shall not without good cause, voluntarily quit employment. (Continued)

.3 EDD Registration Requirements

- .31 When it is determined that no available DSS-funded or CWD approved project(s) providing employment-directed services can accept the applicant or recipient, the CWD shall refer these nonexempt (see Section 69-208.4) ~~RDP of~~ RCA or applicants and recipients to EDD for registration. The CWD shall use EDD approved forms for referral, and clearly indicate on the form that the person is a refugee.
- .32 If a nonexempt ~~RDP of~~ RCA applicant or recipient fails to do any of the following, he/she has not met or maintained the EDD registration requirements:
(Continued)

Amend Section 69-209 to read:

69-209 CAUSE DETERMINATIONS

69-209

.1 General

If recipient fails or refuses to participate/cooperate in the ~~RDP~~/RCA program as required, the CWD shall make a cause determination.

.2 Conditions Under Which Cause Determination Shall Be Made

Using the criteria found in Section 69-209.3, the CWD shall make a cause determination within 10 working days of learning or being advised that the nonexempt refugee who is an ~~RDP~~ ~~of~~ RCA applicant or recipient has: (Continued)

.3 (Continued)

.34 There must be a determination that the refugee a) failed or refused to register or maintain registration with EDD, b) failed or refused to accept a referral to or appear for an employment interview arranged by EDD, or c) failed or refused to report to EDD ~~when~~ when requested. (Continued)

.36 There must be a determination that the individual was informed of the effect the failure or refusal to accept or continue employment or employment-directed education/training, or failure or refusal to comply with the EDD registration requirements, without good cause, will have on his/her receipt of ~~RDP~~ ~~of~~ RCA.

Amend Section 69-210 to read:

69-210 CONCILIATION

69-210

- .1 If the CWD determines that no good cause existed for the failure or refusal to meet program requirements, the CWD shall try to resolve the recipient's failure or refusal to cooperate before the Notice of Action is issued. This process known as conciliation shall begin as soon as possible, but no later than 10 days following the date that the CWD becomes aware of an RDP/RCA recipient's failure to cooperate/participate, whichever occurs first. CWDs must complete the conciliation process within 30 days from the date conciliation begins. (Continued)
- .15 If the recipient follows the terms of the conciliation plan, he/she shall continue to participate in the RCA/RDP program. (Continued)
- .2 Penalties for Failure or Refusal to Comply with the Registration, Employment and Employment-Directed Education/Training Requirements
- .21 If the nonexempt RDP or RCA applicant or recipient has refused or failed, without good cause, to meet or comply with the requirements of Section 69-208.1 through 69-208.3 and 69-210, the CWD shall deny or discontinue benefits for that individual. (Continued)
- 1222 An RDP assistance unit shall be ineligible for RDP benefits until the RDP/RCA parent has registered as required. Other nonexempt individuals in the assistance unit who fail or refuse to register shall be ineligible for RDP benefits.
- 1223 A nonexempt RDP/RCA individual shall be ineligible for RDP benefits until he/she has registered as required. And continues to the remainder of the assistance unit unless the RDP/RCA individual who fails or refuses to register is the only eligible child in the assistance unit. In which case, the entire assistance unit is ineligible for RDP benefits.

Amend Section 69-211 to read:

69-211 AID PAYMENTS

69-211

Aid payments for ~~RDP of~~ RCA cases shall be based on AFDC regulations except that the \$30 and 1/3 or, as applicable, the \$30 disregard shall not be allowed in determining net nonexempt income. (Continued)

- .3 Aid pending verification of refugee status shall not be authorized for ~~purposes of~~ ~~RDP of~~ RCA. The CWD shall complete a CA 6 Form on any refugee who presents questionable documentation for eligibility purposes, unless the refugee him/herself chooses to secure the appropriate documentation by contacting INS directly. (Continued)
- .6 Notwithstanding other eligibility requirements, refugee children who have been legally adopted by United States citizens are not eligible for assistance under ~~RDP of~~ RCA.

Amend Section 69-212 to read:

69-212 OVERPAYMENT/UNDERPAYMENT ADJUSTMENTS AND FRAUD
REFERRALS

69-212

The methods outlined in AFDC regulations concerning the recoupment of overpayments, the correction of underpayments and the procedures concerning fraud shall be followed in RDP and RCA except that the \$30 and 1/3 or, as applicable, the \$30 disregard shall not be allowed in determining the net nonexempt income. *Any overpayments/underpayments incurred by persons transferred from Federal AFDC shall be recovered from the RDP grant.*

Amend Section 69-214 to read:

69-214 TERMINATION OF AID

69-214

Aid payments to refugees under the RDP and RCA programs shall be discontinued in accordance with AFDC regulations and under the following circumstances except that the number of hours worked shall not be a basis for termination: (Continued)

- .5 A refugee fails to cooperate in providing sponsor or VOLAG information for purposes of determining eligibility for RDP or RCA.
- 16 Before September 30, 1989, if 100 percent federal funding for cash assistance only ceases for the RDP or RCA program.
- .76 After September 30, 1989, if 100 percent federal funding for cash assistance or administrative costs ceases for the RCA or RDP Program.
- .87 A refugee becomes a full-time student in a college program in an institution of higher education, except as provided in Sections 69-206.52, .53, and .54.
- 19 When the caretaker relative/principal earner in an RDP case becomes time-expired, regardless of the time-eligibility of the remaining members in the assistance unit.

Amend Section 69-215 to read:

69-215 INTERCOUNTY TRANSFERS

69-215

The procedures for intercounty transfers as outlined in AFDC program regulations shall be applied in RCA ~~and RDP~~.

Amend Section 69-219 to read:

69-219 CLAIMING AND REIMBURSEMENT (Continued)

69-219

.2 Case Numbers - General

.21 All RCA cases, including those for unaccompanied refugee minors, shall be designated with the aid code 01.

122 ALL RDP cases shall be designated with the following aid codes:

1221 Aid Code 77 Federal AFDC+FG eligible refugee cases aided under RDP (RDP+FG)/

1222 Aid Code 78 Federal AFDC+U eligible refugee cases aided under RDP (RDP+U)/

Amend Section 69-221 to read:

69-221 FAIR HEARINGS

69-221

Applicants for and recipients of ~~MPP~~ of RCA shall have the right to appeal any action in accordance with MPP Chapter 22-000.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

FEB 01 1991

At 4:32 o'clock AM.

MARCH FONG EU, Secretary of State

By _____
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 91-0117-01


JOHN D. SMITH
Interim Director

02/01/91

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		91-0104-03N		

For use by Office of Administrative Law (OAL) only

1991 JAN -4 PM 2:42

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
FEB -4 1991

FILED
In the office of the Secretary of State
of the State of California

FEB 04 1991

At 4:35 o'clock P.M.
MARCH FONG EU, Secretary of State
By Nicholas J. Williams
Deputy Secretary of State

AGENCY	AGENCY FILE NUMBER (if any)
State Department of Social Services	RDB #1290-56

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND 80001(a), 82500, 82501, 82522, 82564, 82565, 82565.1, 82568.2, 82568.5, 82570, 82575.1, 82576, 82577, 82579, 82587, and 82588.
	REPEAL

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)			

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify)
--	---	--

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

6. CONTACT PERSON	TELEPHONE NUMBER
Jim Rhoads, Assistant Chief, Regulations Development Bureau	445-0313

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
<u>Linda S. McMahon</u>	1/3/91
TYPED NAME AND TITLE OF SIGNATORY	
Linda S. McMahon, Director	

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Senate Bill No. 504

CHAPTER 113

An act to amend Section 1502.2 of the Health and Safety Code, and to amend Section 9772 of the Welfare and Institutions Code, relating to community care facilities.

[Approved by Governor May 25, 1990. Filed with Secretary of State May 25, 1990.]

LEGISLATIVE COUNSEL'S DIGEST

SB 504, C. Green. Community care facilities.

Under the California Community Care Facilities Act, the State Department of Social Services licenses community care facilities, as defined. For purposes of the act, a social day care facility, as defined, is a type of community care facility.

This bill would replace the term "social day care facility" with the term "adult day support center" for purposes of the act and would make conforming changes to other provisions of law.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Licensed social day care facilities are designed to assist a client population with moderate to severe functional impairments who require a structured therapeutic daytime program of care and supervision in order to reside in the least restrictive setting in the community.

(b) Of equal importance, licensed adult social day care programs assist family caregivers by providing respite from 24-hour a day care responsibility.

(c) Regulations for the new licensing category of social day care facilities, as defined in Section 1502.2 of the Health and Safety Code, were issued on October 26, 1989. These regulations require a higher level of service than currently required of licensed adult day care facilities, as defined in paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code.

(d) The term social day care facilities does not adequately describe the variety and intensity of professional and supportive social services provided by these facilities.

SEC. 2. Section 1502.2 of the Health and Safety Code is amended to read:

1502.2. For purposes of this chapter, a "community care facility" pursuant to Section 1502 includes a adult day support center. A "adult day support center" means a community-based group program designed to meet the needs of functionally impaired adults

through an individual plan of care in a structured comprehensive program that provides a variety of social and related support services in a protective setting on less than a 24-hour basis.

SEC. 3. Section 9772 of the Welfare and Institutions Code is amended to read:

9772. For the purposes of this chapter, the following definitions shall apply:

(a) "Adult day care facility" and "adult day support center" mean a community care facility as defined respectively in paragraph (2) of subdivision (a) of Section 1502 of, and Section 1502.2 of, the Health and Safety Code.

(b) "Department" means the Department of Aging.

(c) "Adult day services" means community-based group programs providing services on less than a 24-hour basis to older disabled persons and functionally impaired adults, including, but not limited to, licensed adult day care and adult day support centers.

80000 GENERAL (Continued)

80000

- (3) Adult Residential Facility as specified in this Chapter and Chapter 6.

HANDBOOK BEGINS HERE

- (A) Licensees who choose this option shall be required to serve only adults and/or emancipated minors as specified in Section 86001(a)(1) and Civil Code Section 62.

HANDBOOK ENDS HERE

- (g) An existing facility licensed as a Social Rehabilitation Center shall by April 1, 1984, meet the requirements for Adult Day Facilities. Between January 1, 1984 and April 1, 1984 the facility shall comply with the requirements for Adult Day Facilities except for changes from the previous requirements regarding physical environment, staff training, staff ratios, and provision of care and supervision to minors who are not emancipated as specified in Section 86001(a)(1) and Civil Code Section 62.

NOTE: Authority cited: Sections 1530 and 1530.5. Health and Safety Code.
Reference: Sections 1501, 1502, 1530 and 1531, Health and Safety Code.

80001 DEFINITIONS

80001

- (a) The following general definitions shall apply wherever the terms are used throughout Division 6, Chapters 1 through 7 and Chapter 9, except where specifically noted otherwise. Additional definitions found at the beginning of each chapter in this division shall apply only to such specific facility category.
- (1) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.
 - (2) "Adult" means a person who is 18 years of age or older.
 - (3) "Adult Day Care Facility" means any facility of any capacity which provides nonmedical care and supervision to adults on less than a 24-hour per day basis.

80001

80001 DEFINITIONS (Continued)

- (4) "Adult Residential Facility" means any facility of any capacity which provides 24-hour a day nonmedical care and supervision to adults except elderly persons.
- (5) "Applicant" means any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity that has made application for an initial or renewal community care facility license.
- (6) "Authorized Representative" means any person or entity authorized by law to act on behalf of any client. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.
- (7) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.
- (8) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.
- (9) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
- (10) "Care and Supervision" means any one or more of the following activities provided by a person or facility to meet the needs of the clients:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication, as specified in Section 80075.
 - (C) Central storing and/or distribution of medications, as specified in Section 80075.

80001

80001 DEFINITIONS (Continued)

- (D) Arrangement of and assistance with medical and dental care.
 - (E) Maintenance of house rules for the protection of clients.
 - (F) Supervision of client schedules and activities.
 - (G) Maintenance and/or supervision of client cash resources or property.
 - (H) Monitoring food intake or special diets.
 - (I) Providing basic services as defined in Section 80001(a) ⁹~~(8)~~.
- ²
(1~~2~~) "Cash Resources" means:
- (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.
 - (E) Allowances paid to children.
 - (F) Any other similar resources as determined by the licensing agency.
- ³
(1~~2~~) "Child" means a person who is under 18 years of age.
- ⁴
(1~~2~~) "Child Care Center" means any facility of any capacity other than a family day care home as defined in Section 88002(i) in which less than 24-hour per day nonmedical supervision is provided for children in a group setting.

80001 DEFINITIONS (Continued)

⁵
(17) "Client" means a child or adult who is receiving care and supervision in a community care facility. Client includes "resident" as used in the Community Care Facilities Act.

⁶
(18) "Community Care Facility" means any facility, place or building where nonmedical care and supervision, as defined in Section 80001(a) (18) are provided. 1

⁷
(18) "Completed Application" means:

(A) The applicant has submitted and the licensing agency has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshal; a criminal record clearance on the applicant and any other individuals specified in Section 80019.

(B) The licensing agency has completed a site visit to the facility.

⁸
(17) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.

⁹
(18) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.

²⁰
(18) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act (Health and Safety Code, Section 1500 et seq.) and/or regulations adopted by the Department pursuant to the Act.

¹
(20) "Department" is defined in Health and Safety Code Section 1502(b).

HANDBOOK BEGINS HERE

(A) Department means the State Department of Social Services.

HANDBOOK ENDS HERE

80001 DEFINITIONS (Continued)

80001

- (21) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

HANDBOOK BEGINS HERE

- (A) Welfare and Institutions Code Section 4512(a) provides in part: "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual.

This term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

HANDBOOK ENDS HERE

- (22) "Dietitian" means a person who is a member of or registered by the American Dietetics Association.

- (23) "Director" is defined in Health and Safety Code Section 1502(c).

HANDBOOK BEGINS HERE

- (A) Director means the director of the State Department of Social Services.

HANDBOOK ENDS HERE

- (24) "Elderly Person" means any person who is 62 years of age or older.

80001 DEFINITIONS (Continued)

- (25) ⁶ "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license community care facilities.
- (26) ⁷ "Exception" means a written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific client(s) or staff person(s). Exceptions are granted for particular client(s) or staff person(s) and are not transferable or applicable to other client(s), staff person(s), facilities or licensees.
- (27) ⁸ "Exemption" means an exception to the requirements of Health and Safety Code Section 1522 and applicable regulations. Exemptions are not transferable.
- (28) ⁹ "Existing Facility" means any community care facility operating under a valid, unexpired license on the date this chapter becomes effective.
- (29) ³⁰ "Group Home" means any facility of any capacity which provides 24-hour nonmedical care and supervision to children in a structured environment, with such services provided at least in part by staff employed by the licensee.
- (30) ¹ "Guardian" means a person appointed by the Superior Court pursuant to the provisions of Sections 1500 et seq. of the Probate Code to care for the person, or estate, or the person and estate of another.
- (31) ² "Home Economist" means a person who holds a baccalaureate degree in home economics with a specialization in either foods and nutrition or dietetics.
- (32) ³ "Infant" means a child under two years of age.
- (33) ⁴ "License" means authorization to operate a community care facility and to provide care and supervision. The license is not transferable.
- (34) ⁵ "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed community care facility.

80001 DEFINITIONS (Continued)

80001

- (35) ⁶ "Licensing Agency" means the State Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.
- (36) ⁷ "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) of the American Psychiatric Association and a degree of functional impairment which renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.
- (37) ⁸ "Nonambulatory Person" means a person as defined in Health and Safety Code Section 13131.
- (A) A person who uses postural supports as specified in Section 80072(a)(8) is deemed nonambulatory.
- (B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

HANDBOOK BEGINS HERE

- (C) Health and Safety Code Section 13131 provides:

"Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984 who are not developmentally disabled shall be made by the Director of Social Services or his or her designated representative.

HANDBOOK ENDS HERE

80001 DEFINITIONS (Continued)

80001

- (38)⁹ "Nutritionist" means a person who holds a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.
- (40)⁹ "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.
- (41)¹ "Provision" or "Provide" means whenever any regulation requires that provisions be made for or that there be provided any service, personnel, or other requirement, the licensee shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.
- (42)² "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months. A provisional license is issued in accordance with the criteria specified in Section 80030.

~~(43) "Rehabilitation Facility" (Repealed with CAL File No. 90-1210-01N).~~

- (44)³ "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
- (45)⁴ "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the clients of a community care facility.

HANDBOOK BEGINS HERE

- (A) See Section 80051 and other applicable sections in Chapters 2 through 7 for examples of violations which commonly result in serious deficiencies.

HANDBOOK ENDS HERE

80001 DEFINITIONS (Continued)

- (45) ⁵ "Small Family Home" means any residential facility in the licensee's family residence providing 24-hour a day care for six or fewer children who are mentally disordered, developmentally disabled or physically handicapped and who require special care and supervision as a result of such disabilities.
- (46) ⁵ ~~"Special Day Care Facility"~~ ^{Adult Day Support Center} means a community based group program designed to meet the needs of functionally impaired adults through an individual plan of care in a structured comprehensive program that provides a variety of social and related support services in a protective setting on less than a 24-hour basis.
- (47) "Social Rehabilitation Facility" means any facility which provides 24-hour-a-day nonmedical care and supervision in a group setting to adults recovering from mental illness who temporarily need assistance, guidance or counseling.
- (48) "Social Worker" means a person who has a graduate degree from an accredited school of social work.
- (49) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.
- (50) "Substantial Compliance" means the absence of any serious deficiencies.
- (51) "Substantiated Complaint" means a complaint which has been investigated by the licensing agency, and as a result, a violation of regulations has been found.
- (52) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a client or resident from one facility to another.
- (53) "Unlicensed Community Care Facility" means a facility as defined in Health and Safety Code Section 1503.5.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1503.5 provides:

A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide nonmedical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

HANDBOOK CONTINUES

(53) "Urgent Need" (Continued)

(54) "Waiver" (Continued)

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SOCIAL DAY CARE FACILITIES

This Users' Manual is issued as an operational tool.

- a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries
- b) Regulations adopted by other State Department affecting DSS programs
- c) Statutes from appropriate Codes which govern DSS programs
- d) Court decisions and
- e) Operational standards by which DSS staff will evaluate performance within DSS programs.

Regulations of DSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and phrases "HANDBOOK BEGINS HERE", "HANDBOOK CONTINUES", and "HANDBOOK ENDS HERE" in bold print. Please note that both other departments' regulations and statutes are mandatory, not optional.

In addition, please note that as a result of the change to a new computer system revised language in all subsequent community care licensing manual letters will now be identified by graphic screen.

Questions relative to this Users' Manual should be directed to your usual program policy office.

ADULT DAY SUPPORT CENTER
CHAPTER 3.5, SOCIAL DAY CARE FACILITIES

Article 1. General Requirements

82500

82500 GENERAL

Adult Day Support Centers
(a) ~~Social Day Care Facilities~~, as defined in Section 80001(a)(4), shall be governed by the provisions specified in this chapter and in Chapter 1, General Licensing Requirements.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82501

82501 DEFINITIONS

(a) In addition to Section 80001, the following shall apply:

²
(1) "Assessment" means a written evaluation which identifies the participant's strengths and his/her social and other related needs.

³
(2) "Careprovider" means any person or institution having the responsibility for the participant's primary care needs outside the center facility.

⁴
(3) "Consultant" means a person professionally qualified by training and experience to provide expert information on a particular subject and/or to provide services not otherwise available through the center's facility's personnel.

⁵
(4) "Direct Care Staff" means those persons in the center facility who provide care and supervision to participants at least 70 percent of the hours of program operations per month or who supervise direct care staff.

⁶
(5) "Formal Supports" means the formal network of social, health, financial, and other services offered by public and private agencies.

82501

DEFINITIONS (Continued)

82501

⁷
(g) "Functionally Impaired Adult" means an adult who does not require continuous on-site medical supervision, yet has a limited capacity for independence in the following:

(A) In activities of daily living such as grooming, bathing, toileting and other hygiene care.

(B) In instrumental activities of daily living such as paying bills, cooking, shopping and using the telephone.

⁸
(f) "Individual Plan of Care" means a written plan of services provided to a participant of a adult day support center ~~social day care facility~~ according to the documented assessed needs of that participant.

⁹
(g) "Participant" means any person admitted to a adult day support center ~~social day care~~ program. Participant is equivalent to "client" as used in the general licensing requirements.

¹
(g) adult day support center ~~social day care~~ "Adult Day Support Center" means those non-medical services provided in a ~~social day care facility~~ to adults with physical, emotional or mental impairments, and who require assistance and supervision. Such persons include, but are not limited to, the following:

(A) Those persons who require assistance with personal activities of daily living (bathing, dressing, grooming, etc.) and instrumental activities of daily living (laundry, shopping, paying bills, etc.). These persons may live independently, at home with a careprovider, in a community care facility, or in a health facility but do not require a medical level of care during the day.

(B) Those persons who require assistance and supervision in overcoming the isolation associated with functional limitations or disabilities.

(C) Those persons who, without program intervention, are assessed to be at risk of physical deterioration of premature institutionalization due to their psychological condition.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Article 2. Licensing (Reserved)

Article 3. Application Procedures

82522

82522 PLAN OF OPERATION

(a) In addition to Section 80022, the following shall apply:

(b) The plan shall contain:

(1) Description of services to be provided.

(2) Hours of operation consistent with the plan of operation and program purpose and goals.

(3) Description of the participant group to be served.

(c) Each ~~social day care facility~~ ADULT DAY SUPPORT CENTER shall have, in writing, a plan for internal evaluation of its operation and services. The plan shall include a timetable for completing an annual evaluation, the areas that will be addressed in this evaluation, and the methodology to be used. A copy of the final annual evaluation shall be kept on file at the ~~facility~~ center and shall be available to the licensing agency during site visits.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, 1520, and 1531, Health and Safety Code.

Article 4. Administrative Actions (Reserved)

Article 5. Civil Penalties (Reserved)

Article 6. Continuing Requirements

82564

82564 ADMINISTRATOR - QUALIFICATIONS AND DUTIES

(a) In addition to Section 80064, the following shall apply.

(b) All ADULT DAY SUPPORT CENTERS ~~social day care facilities~~ shall have an administrator.

(1) If an administrator is responsible for two or more ADULT DAY SUPPORT CENTERS ~~social day care facilities~~, there shall be at each site an employee who is responsible for the day-to-day operation of the CENTER ~~facility~~ and who meets the following qualifications:

(A) A baccalaureate degree in psychology, social work or a related human services field; or

(B) A minimum of one year of experience in a supervisory or management position in the human services delivery system.

(2) An administrator shall not be responsible for more than five CENTERS ~~facilities~~.

(c) When the administrator or the employee specified in (b)(1) above is absent CENTER ~~from the facility~~, there shall be coverage by a substitute designated by the licensee, who meets the qualifications of Section 80065, who is on site, and who shall be capable of, and responsible and accountable for the management and administration of the CENTER ~~facility~~ in compliance with applicable laws and regulations.

(1) When the administrator is absent from the CENTER ~~facility~~ for more than 30 consecutive days, the licensee shall designate a substitute who meets the qualifications of an administrator as specified in Section 80064 and (d) below.

(2) When the employee specified in (b)(1) above is absent from the CENTER ~~facility~~ for more than 30 consecutive days, the licensee shall designate a substitute who meets the qualifications of an administrator as specified in Section 80064 and (d) below.

82564

ADMINISTRATOR - QUALIFICATIONS AND DUTIES (Continued)

82564

(d) The administrator shall meet the requirements specified below:

(1) A baccalaureate degree in psychology, social work or a related human services field and a minimum of one year experience in the management of a human services delivery system, or

(2) Three years experience in a human services delivery system including at least one year in a management or supervisory position and two years experience or training in one of the following:

(A) Care and supervision of participants in a licensed adult/^{day care facility, adult day support center,} social day care or an adult day health care facility.

(B) Care and supervision of one or more of the categories of persons to be served by the ^{facility.} ~~CENTER~~

(e) Administrators employed prior to the effective date of this section shall remain qualified provided that they have no break in employment as an adult day care facility administrator exceeding three consecutive years.

(f) The administrator shall:

(1) Provide for continuous supervision of all participants.

(2) Supervise the operation of the ^{CENTER} facility.

(3) Comply with applicable laws and regulations.

(4) Communicate with the Department as required by applicable laws and regulations.

(5) Acknowledge the receipt of the Department's correspondence, notices, or field reports when the Department has requested a response.

(6) Assure the timely correction of all cited deficiencies.

(7) Adjust the program to accommodate the needs of all participants.

(8) Coordinate all activities and services.

(9) Recruit, hire, and generally supervise all staff.

(10) Provide initial orientation for all staff and ongoing educational and training programs for the direct care staff.

82564 ADMINISTRATOR - QUALIFICATIONS AND DUTIES (Continued)

82564

- (11) Arrange for special provision for the care and supervision, including health, safety, and guidance, of participants who have special needs.

HANDBOOK BEGINS HERE

- (A) Such provisions may include additional staff to supervise participants who wander, to maintain mechanical medical aids, and to monitor toileting schedules.
- (B) Other special needs of participants may include safety and emergency information in large lettering and/or in braille and lights to alert the deaf to emergencies.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, 1531, and 1562, Health and Safety Code.

82565 PERSONNEL REQUIREMENTS

82565

- (a) In addition to Section 80065, the following shall apply:
- (b) There shall be at least two persons on duty, at least one of whom is a direct care staff member, at all times when there are two or more participants in the CENTER facility.
- (c) The licensee shall provide for an overlap of staff at each shift change to ensure continuity of care.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, 1531, and 1562, Health and Safety Code.

82565.1 PERSONNEL QUALIFICATIONS AND DUTIES

82565.1

- (a) The licensee shall develop, maintain, and implement a written plan for the orientation, continuing education, on-the-job training and development, supervision, and evaluation of all direct care staff.
- (1) The plan shall require direct care staff to receive and document a minimum of 20 clock hours of continuing education during the first 18 months of employment or within 18 months after the effective date of these regulations, and during each three-year period thereafter.
 - (2) The administrator shall receive and document a minimum of 30 clock hours of continuing education every 24 months of employment.
 - (3) Continuing education shall include completion of courses related to the principles and practices of care of the functionally impaired adult including, but not limited to, workshops, seminars, and academic classes.
 - (A) Courses shall be approved in writing by the licensing agency.
- (b) For each group of 25 participants, or fraction thereof, there shall be at least one direct care staff person who has a baccalaureate degree in a health, social or human service field, or one year documented full-time experience providing direct services to frail or physically, cognitively, or emotionally impaired adults.
- (c) The program shall provide staff to perform the following duties:
- (1) Support staff
 - (A) Administrative support, including clerical, bookkeeping, and accounting.
 - (B) Cooking.
 - (C) Housecleaning. center
 - (D) Maintenance of ~~facility~~ buildings, grounds, fixtures, furniture, equipment, and supplies.
 - (2) Direct care staff shall be reasonable for care and supervision of participants, as defined in Section 80001(a) (10).

82565.1 PERSONNEL QUALIFICATIONS AND DUTIES (Continued)

82565.1

- (3). Direct care staff shall not be assigned to any of the support staff duties specified in (c)(1) above unless the care and supervision needs of participants have been met.

- (A) During the performance of support staff duties a direct care staff member shall not be counted in the staff-to-participant ratio specified in Section 82565.5.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, 1531, and 1562, Health and Safety Code.

82565.5 STAFF-TO-PARTICIPANT RATIO

82565.5

- (a) There shall be an overall ratio of not less than one direct care staff member providing care and supervision for each group of eight participants, or fraction thereof, present.
- (b) Notwithstanding Section 80065(c), volunteers may be included in the staff-to-participant ratio if the volunteer meets the requirements for direct care staff as specified in Section 82501(a)(4).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82568.2 ASSESSMENT AND INDIVIDUAL PLAN OF CARE

82568.2

- (a) Each ^{center} ~~facility~~ shall be responsible for the assessment and any reassessment of a participant and the development of a participant's individual plan of care.
- (b) The following persons shall be involved in the development of the assessment and any reassessment of a participant and the development of a participant's individual plan of care:
- (1) The participant and his/her authorized representative, if any.
 - (2) The careprovider.
 - (3) The administrator of the facility or his/her designee.
 - (4) A direct care staff person as specified in Section 82565.1(b).

82568.2 ASSESSMENT AND INDIVIDUAL PLAN OF CARE (Continued)

82568.2

(c) A comprehensive written assessment shall be completed. The assessment shall identify the individual's strengths and needs.

(1) The assessment shall include:

(A) A social history, identification of formal support systems, description of limitation of activities of daily living skills, and mental and emotional status. These items shall be completed prior to admission.

(B) A written medical assessment of the participant as specified in Section 80069.

(2) An assessment completed by another social service or health agency may be used if it is determined that the participant's physical, mental or emotional status has not significantly changed since the assessment.

(A) The assessment shall be no more than six months old.

(d) Each participant shall have a written individual plan of care that includes all of the following:

(1) Summary of assessment findings.

(2) Individual service plan which shall include:

(A) Scheduled days of attendance.

(B) A plan to meet the transportation needs of the participant.

(C) Time-limited goals and objectives of the care and services to be provided, with provisions for review and modifications as needed.

(D) An individual activity plan designed to meet the needs of the participant for psychosocial and recreational activities.

Regulations

SOCIAL DAY CARE FACILITIES

82568.5 (Cont.)

82568.2 ASSESSMENT AND INDIVIDUAL PLAN OF CARE (Continued)

82568.2

(E) Recommendations for referrals to other service providers and therapy which the ~~social day care facility~~ will coordinate.
ADULT DAY SUPPORT CENTER

(F) Prescribed medications, dosages, and frequency, if any.

(3) Reassessments as specified in Section 82568.3.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

82568.3 MODIFICATIONS TO THE ASSESSMENT AND INDIVIDUAL PLAN OF CARE

82568.3

(a) A reassessment shall be completed for each participant at least every six months or more frequently, if needed, to assure the accuracy of the assessment of appropriateness of the individual plan of care, and to document significant occurrences which result in changes in the participant's physical, mental, and/or psychological functioning.

(b) An updated list of medications currently taken by the participant shall be included in the reassessment.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

82568.5 PROCEDURES FOR DISCHARGE

82568.5

(a) A minimum of two weeks notice shall be given to a participant and his/her family and careproviders if it is determined that ~~the facility~~ can no longer meet the needs of the participant, and he/she must be discharged from the program.

(b) The immediate discharge of an individual shall be allowed when it is determined that the individual's condition has suddenly changed and participation in the ~~facility~~ is likely to cause danger to self or others.
CENTER

82568.5 PROCEDURES FOR DISCHARGE (Continued)

82568.5

- (1) The licensing agency shall be notified by telephone within the agency's next working day during normal business hours and in writing within seven days when a participant is discharged without the two weeks notice.

- (c) The ^{CENTER}~~facility~~ shall refer the participant to other agencies for continuing care and follow-up, as needed.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82570 PARTICIPANT'S RECORDS

82570

- (a) In addition to Section 80070, the following shall apply:

- (b) Each record shall contain, but is not limited to, the following information:

- (1) Assessment and reassessments as specified in Sections 82568.2 and 82568.3.
- (2) Plan of care as specified in Sections 82568.2(d) and 82568.3(a).
- (3) Authorization, signed and dated by the participant or his/her authorized representative, to specific individuals/agencies for release of medical information.
- (4) Authorization, signed and dated by the participant or authorized representative, for the participant to receive emergency medical care, if necessary, or a statement signed and dated by the participant or authorized representative, that the participant will not sign an authorization.
- (5) Correspondence and incident reports relating to the participant.
- (6) Reason for discharge from the ^{CENTER}~~facility~~.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82575 HEALTH-RELATED SERVICES

(a) In addition to Section 80075, the following shall apply:

- (b) The ~~social day care facility~~ ADULT DAY SUPPORT CENTER shall notify the family/careprovider and/or physician of any significant changes in the participant's physical or mental condition.
- (c) The ~~facility~~ CENTER shall make available health education material to the participants, family, and careproviders.
- (d) The ~~facility~~ CENTER shall encourage and/or arrange appropriate contacts with health professionals and facility staff shall keep themselves informed of the participant's health status.
- (e) The ~~facility~~ CENTER shall train program staff and participants in emergency procedures.
- (f) The ~~facility~~ CENTER shall have at least one full-time staff member who has a current certificate in first aid and cardiopulmonary resuscitation present in the facility during operating hours.
- (g) The ~~facility~~ CENTER staff shall call emergency medical personnel whenever necessary, with or without the authorization required in Section 82570(b)(4).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

82575.1

82575.1 DAILY INSPECTIONS FOR ILLNESS

- (a) The licensee shall ensure daily that participants with obvious symptoms of illness, including, but not limited to, fever and vomiting, are not allowed in the ~~facility~~ CENTER unless they are separated from other participants.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

82576

SOCIAL DAY CARE FACILITIES

Regulations

82576

82576 FOOD SERVICES

- (a) In addition to Section 80076, the following shall apply.
- (b) A participant in care for less than eight hours shall be provided meals and snacks so that no more than three and a half hours elapse between food service.
- (c) A participant in care for a period of eight hours or longer, shall be provided a mid-morning snack, lunch, and a mid-afternoon snack.
- (d) A licensee who accepts a participant at 7:00 a.m. or earlier shall include a statement in the admission agreement of each participant regarding provision of breakfast.

HANDBOOK BEGINS HERE

- (1) This requirement is not intended to require that the licensee provide breakfast, only that the admission agreement state whether or not breakfast will be provided.

HANDBOOK ENDS HERE

- (e) Participants shall be permitted to bring their own food to the ^{CENTER}~~facility~~ unless otherwise stated in the admission agreement.

- (1) If the participant brings all or part of his/her own food to the ^{CENTER}~~facility~~, the licensee shall ensure that food service requirements specified in (b) and (c) above, are met.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82577

82577 PERSONAL SERVICES

- (a) When necessary, personal care assistance and supervision shall be provided to participants. This service shall include, but is not limited to, assistance with activities of daily living, such as walking, eating, grooming, toileting, and supervision of personal hygiene.
- (b) Psychosocial support services shall be available to each participant and his/her family.
- (1) The ^{CENTER}~~facility~~ shall assist participants and careproviders to understand and provide for each other's needs.

82577

82577 PERSONAL SERVICES (Continued)

- (2) The ~~facility~~ ^{CENTER} shall inform the family and careprovider of changes in the participant's physical, emotional, or cognitive status.
- (3) The ~~facility~~ ^{CENTER} shall help the careprovider to understand any changes in the participant and make referrals as necessary.
- (c) Information and referral services shall be available to the participants and their families.
- (d) The ~~facility~~ ^{CENTER} shall establish linkages with other community agencies and instructions to staff to coordinate services.
- (e) Participants who are incontinent shall be taken to the toilet every two hours or as scheduled to the individual plan of care.
- (f) After incontinent elimination, the participant shall be cleaned and towel-dried.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82579

82579 ACTIVITIES

- (a) ~~Social day care~~ ^{ADULT DAY SUPPORT CENTER} activities shall be designed to meet the participant's specific needs and interests, as determined by the individual plan of care, and shall be consistent with the ~~facility's~~ ^{CENTER'S} plan of operation.
- (1) Activities shall be planned by the administrator or the direct care staff allowing input from participants, family, careproviders, or volunteers.
- (2) The ~~facility~~ ^{CENTER} shall have a written plan of activities consistent with the program goals. The plan is an on-going process and shall be reviewed and revised as necessary to assure that the ~~facility~~ ^{CENTER} program and participants' goals are being met.
- (b) All program activities shall be supervised by direct care staff.

82579

ACTIVITIES (Continued)

82579

- (c) The ~~facility~~ ^{CENTER} shall encourage participants to take part in activities unless otherwise indicated in the individual plan of care.
- (d) Participants shall be given rest periods as required in the medical assessment specified in Section 80069 or as desired by the participants.
- (e) Activities shall be conducted with appropriate space, equipment, and supplies as specified in Sections 82587.2, 82587.3, and 82588(i).
- (f) A monthly calendar of activities shall be prepared and posted in a visible location within the ~~facility~~ ^{CENTER}. The calendar shall be made available to anyone who requests a copy.
- (g) Daily activities shall be posted in a visible location within the ~~facility~~ ^{CENTER}.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Article 7. Physical Environment

82587

82587 BUILDINGS AND GROUNDS

- (a) In addition to Section 80087, the following shall apply.
- (b) There shall be office space available on the premises for private interviews conducted by ~~facility~~ CENTER staff.
- (c) Rooms or areas for rest periods shall be provided.
- (d) When a ~~social day care~~ ADULT DAY SUPPORT CENTER program is located in a place where other activities or programs may be conducted, the ~~social day care program~~ ADULT DAY SUPPORT CENTER shall have its own separate identifiable space during the hours of operation.
- (e) Sufficient parking area shall be available for safe arrival and departure of participants.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82587.2

82587.2 OUTDOOR ACTIVITY SPACE

- (a) If outdoor activity space is provided, it shall:
- (1) Be free of safety hazards.
 - (2) Provide protection from traffic.
 - (3) Provide a shaded rest area for the participants.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82587.3

SOCIAL DAY CARE FACILITIES

Regulations

82587.3 INDOOR ACTIVITY SPACE

82587.3

- (a) The licensee shall ensure safe and healthy indoor activity space for participants.
- (b) A space shall be provided for participants not actively participating in the planned activity programs.

HANDBOOK BEGINS HERE

- (1) This area can be a library, study room, or areas adjacent to the activity.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82587.4 STORAGE SPACE

82587.4

- (a) There shall be a space available for storage of participants' personal belongings.
- (b) There shall be space available for storage of staff members' personal belongings.
- (c) There shall be space available for storage of equipment and supplies necessary to implement the planned activity program.
- (d) There shall be space available on the premises for storage of the facility's current records specified in this chapter and Chapter 1.

HANDBOOK BEGINS HERE

- (e) Storage space may be either permanent or portable.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82588

FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES

82588

- (a) In addition to Section 80088, the following shall apply.
- (b) Based upon the total licensed capacity, one hand-washing facility and one toilet providing individual privacy, shall be maintained for every group of 15 participants or fraction thereof.
- CENTERS ADULT DAY SUPPORT CENTERS
- (1) Facilities licensed as adult day/care facilities by the effective date of this chapter which become social day care facilities shall be permitted to continue operations with the toilet facilities previously approved.
- (c) Use of common towels and washcloths shall be prohibited.
- (d) Diapers and panty shield products shall be provided if the CENTER facility accepts participants who are incontinent and these products are not provided by the family or others.
- (1) The licensee shall obtain a change of clothing from incontinent participants in case clothing becomes wet or soiled.
- (e) After each incontinent elimination, washcloths, towels, soiled bedding, clothing, and any cloths used for cleansing shall be placed in a sealed container and shall be laundered and sanitized.
- (f) Disposable diapers, panty shield products, and disposables used for cleansing shall be disposed of in a sealed bag.
- (g) Odors due to incontinent participants shall be controlled.
- (h) If beds are provided for resting, they shall be arranged to allow for unobstructed passage of personnel and of participants with assistive devices including, but not limited to, wheelchairs and walkers.
- CENTERS
- (i) Facilities shall provide the equipment and supplies necessary to meet the requirements of the planned activity program.
- (1) Equipment shall be safe and sanitary.
- (2) A variety of games, reading materials, crafts, and other materials shall be provided.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

82588.2

SOCIAL DAY CARE FACILITIES

Regulations

82588.2 DRINKING WATER

82588.2

- (a) Drinking water from a noncontaminating fixture or container shall be readily available both indoors and outdoors.

- (1) Participants shall be permitted to drink water whenever they wish.

HANDBOOK BEGINS HERE

- (2) Bottled water or portable containers will be allowed provided that:

(A) The water and containers are kept free of contaminations.

(B) Bottled water containers are secured to prevent tipping and breaking.

HANDBOOK ENDS HERE

- (3) All water used for drinking shall be potable as defined in California Administrative Code, Title 24, Part 5.

HANDBOOK BEGINS HERE

- (A) Title 24, Part 5 defines potable water as water which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the health authority having jurisdiction.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

FEB 04 1991

At 4:35 o'clock P.M.

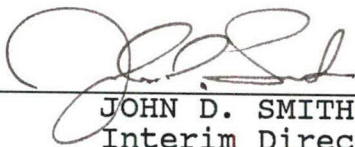
MARCH FONG EU, Secretary of State

By Michele L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 91-0104-03


JOHN D. SMITH
Interim Director

02/04/91

NONSUBSTANTIVE

STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90)

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		91-0118-08N		

For use by Office of Administrative Law (OAL) only

1991 JAN 18 PM 4:10

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
FEB 15 1991

Office of Administrative Law

FILED
In the office of the Secretary of State
of the State of California

FEB 15 1991

At 4:33 o'clock P.M.
MARCH FONG EU, Secretary of State
By Michele R. Williams
Deputy Secretary of State

AGENCY	REGULATIONS	AGENCY FILE NUMBER (if any)
STATE DEPARTMENT OF SOCIAL SERVICES		RDB#0191-02

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND
TITLE(S)	REPEAL
MPP	22-009.12

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON	TELEPHONE NUMBER
Rosalie Clark, Chief, Regulations Development Bureau	5-0313

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
Linda S. McMahon	1-17-91

TYPED NAME AND TITLE OF SIGNATORY

LINDA S. McMAHON, DIRECTOR

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

3/11/13 10:21 AM

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Repeal Section 22-009.12 and renumber current Section 22-009.13 to .12 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING

22-009

.1 (Continued)

112 In all other cases, the date of the action or inaction shall be considered to be the date the action or inaction was discovered. The date of discovery is the date the claimant knew, or should have known, of the action or inaction, and of the right to request a state hearing, including the procedures necessary to obtain a hearing concerning such action or inaction.

.132 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554 10951, Welfare and Institutions Code. Cf. Appl. Fourth App Dist. Div 1, State of California, case of Morales v. McMahon (Superior Court Case No. 532488, August 27, 1990) 223 Cal. App. 3rd Section 184, 272 Cal. Rptr. 688.

AUG 27 1990

CERTIFIED FOR PUBLICATION

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

CLEOTILDE MORALES et al.,

Plaintiffs and Appellants,

v.

LINDA McMAHON, in her official
capacity as DIRECTOR,
DEPARTMENT OF SOCIAL SERVICES,

Defendant and Respondent.

D010392

(Super. Ct. No. 532466)

Appeal from a judgment of the Superior Court of San Diego
County, Kevin Midlam, Judge. Reversed and remanded with
instructions.

Legal Aid Society of San Diego, Inc., Anson B. Levitan,
Carol Bracy and Colleen Fahey Fearn for Plaintiffs and
Appellants.

John K. Van de Kamp, Attorney General, Charlton G. Holland,
III, Assistant Attorney General, Anne S. Pressman, Supervising
Deputy Attorney General, and Richard J. Magasin, Deputy
Attorney General, for Defendant and Respondent.

Appellant Cleotilde Morales brought an action for
declaratory and injunctive relief, and for mandamus,

challenging a certain regulation promulgated by the Department of Social Services (D.S.S.). Such regulation limits the time for a welfare recipient to request a fair hearing to challenge adverse determinations on certain benefits. Appellant sued individually, and as representative of a class consisting of all recipients of benefits under the "Aid to Families with Dependent Children" program (AFDC program) (42 U.S.C., § 601 et seq.), whose request for a fair hearing was denied pursuant to D.S.S.'s Manual of Policy and Procedures (M.P.P.) section 22-009.11 (the challenged regulation). Appellant contends the challenged regulation is invalid, because it is inconsistent with controlling federal regulations and state statutes providing for rights to notice and hearing, and also is inconsistent with federal and state procedural due process rights. Appellant appeals from the judgment finding the challenged regulation valid.

Because the challenged regulation appears incompatible with controlling federal regulations which mandate written notice of certain adverse determinations, we are compelled to conclude the regulation is invalid and unenforceable.

1. Statutory Context

The AFDC program is a cooperative federal and state program of financial assistance to needy children and their families. (See 42 U.S.C., § 601 et seq.; Sheer v. Vialpando (1974) 416 U.S. 251, 253.) Although a state is not required to

participate in the program, once a state chooses to participate it must administer the state plan in conformity with the federal laws and regulations governing the program. (*King v. Smith* (1968) 392 U.S. 309, 316-317; *CAMP v. Swope* (1979) 94 Cal.App.3d 733, 743.)

There is no dispute that 45 Code of Federal Regulations section 205.5 governs state plans administering certain benefits under the Social Security Act, including the benefits appellant claims were improperly denied based on the challenged regulation. When the state intends to take certain types of "adverse action" as to certain benefits (such as reducing or ending payments to the recipient), federal regulations under 45 Code of Federal Regulations section 205.10(a)(4) provide that:

"(i) The State . . . shall give timely and adequate notice, except as provided for in paragraphs (a)(4)(ii), (iii), or (iv) of this section. Under this requirement:

(A) 'Timely' means that the notice is mailed at least 10 days before the date of action, that is, the date upon which the action would become effective;

(B) 'Adequate' means a written notice that includes a statement of what action the agency intends to take, the reasons for the intended agency action, the specific regulations supporting such action, explanation of the individual's right to request an evidentiary hearing (if provided) and a State agency

~~AUG-30-90 THU 13:41 13.000000000000000~~

hearing, the circumstances under which assistance is continued if a hearing is requested, [and an explanation of repayment obligations, if any]."

(Emphasis added.)¹

Federal regulations also mandate that aggrieved recipients, dissatisfied with the agency action, be provided the right to a hearing to be conducted under the due process standards enunciated in Goldberg v. Kelly (1970) 397 U.S. 254 (see 45 C.F.R., § 205.10(a)(1)). Such regulations further provide the claimant shall be given a reasonable time, not to exceed 90 days, in which to appeal the agency action. (See 45 C.F.R., § 205.5(a)(5)(iii).)

Appellant challenges a state regulation, promulgated by D.S.S. as part of its M.P.P., which ostensibly implements the 90-day limitation period for filing appeals of adverse actions. State regulations include a requirement for notifying a claimant of an adverse action² which parallels the federal notice requirements, and mandate that a dissatisfied claimant

¹ Similar regulations governing a recipient's right to notice and hearing apply to the Food Stamp program. (See 7 C.F.R., § 273.13.)

² M.P.P. section 22-001(a)(1) provides: "Adequate Notice - A written notice informing the claimant of the action the county intends to take, the reasons for the intended action, the specific regulations supporting such action, an explanation of the claimant's right to request a state hearing, and if appropriate, the circumstances under which aid will be continued if a hearing is requested."

request a hearing within 90 days after the date of the action.
(M.P.P., § 22-009.1.)

The specific regulation which appellant contends is invalid provides:

"If the claimant received adequate notice of the action (see Section 22-001(a)(1)), the date of the action shall be the date on which the notice was mailed to the claimant. In all other cases, the date of the action or inaction shall be considered to be the date the action was discovered. The date of discovery is the date the claimant knew, or should have known, of the action." (M.P.P., § 22-009.11, emphasis added.)³

It is the highlighted portion of the regulation which appellant contests, arguing it effectively dispenses with the necessity of providing written notice. She claims such language precludes a recipient from a fair hearing without ever receiving any written notice if the hearing officer concludes the recipient had obtained (or was charged with) knowledge of the agency's action reducing benefits and of the recipient's right to appeal.

³ The regulation was amended in 1987 to add that the date of the action would accrue from the time the claimant knew, or should have known, of the action and of the right to request a hearing including the procedures necessary to obtain a hearing on such action. (See M.P.P., § 22-009.12.)

2. Factual and Procedural Background

In appellant's case, her aid was reduced in 1981 based on the D.S.S.'s determination she had been overpaid in prior benefit periods, because she failed to report that an "absent" parent was in fact living in her home during these prior periods. The "Notice of Action" (NOA) sent in 1981 informed her of the proposed action reducing her benefits, but failed to state the reason for the proposed action, as required by state and federal regulations. The 1981 NOA invited the claimant to call her eligibility worker if she had any questions, and informed her of her right to appeal within 90 days of the NOA.

In 1983 Morales first received a NOA stating "absent parent at home" as the reason for reducing her benefits. Morales filed for a fair hearing within 90 days of the 1983 NOA. The hearing officer, relying on the "knew or should have known" language of the challenged regulation, concluded the action was barred as untimely because Morales knew or should have known in 1981 of the action reducing her benefits and of her right to appeal, thereby triggering the 90-day period of appeal.

The instant lawsuit was then filed to challenge the validity of the state regulation, contending it was incompatible with federal law and violative of federal and state procedural due process guarantees. The trial court

granted D.S.S.'s motion for summary judgment, concluding the challenged regulation did not violate federal or state regulatory or constitutional requirements.

3. The State Regulation Is Invalid Insofar As It Operates to Deny Claimants a Fair Hearing Without Providing Claimants with the Federally Mandated Written Notice of Action

The narrow issue before us is whether the state regulation may validly deny a "fair hearing" to a recipient of AFDC funds, even though the written notice of the adverse action required by 45 Code of Federal Regulations section 205.10(a)(4)(i)(B) was never provided, merely because the recipient "knew or should have known" of the adverse action and his right to appeal.

As discussed above, state participation in the federally funded welfare programs is elective, but once the state opts to participate it must administer its programs in compliance with federal laws and regulations. (County of Alameda v. Carleson (1971) 5 Cal.3d 730, 739.) To the extent state regulations conflict or are incompatible with federal regulations governing such programs, the state regulations are invalid and unenforceable. (See, e.g., CAMP v. Swoap, supra, 94 Cal.App.3d at pp. 741-746.)

We conclude the state regulation is incompatible with the federal regulations because the former would preclude a recipient from obtaining a federally mandated fair hearing even

though he never received the federally mandated written notice of adverse action. The federal regulation governing hearings is unequivocal: In cases of adverse action, the state shall give timely and adequate notice, such "adequate notice" being defined as written notice containing certain mandatory information. The federal regulation provides no exceptions for oral notice or constructive notice.⁵

The parties have not cited, nor have we located, any authorities directly addressing the issue of whether a state may enforce a regulation which effectively eliminates the necessity of providing the federally prescribed written notice, as does the challenged regulation. However, the courts have uniformly invalidated state promulgated policies which provided some form of written notice where the specified notice failed adequately to convey the substantive information federal regulations mandated for inclusion. (See, e.g., Schroeder v. Hagstrom (D.C. Ore. 1984) 590 F.Supp. 121, 125-130 [notice which failed to explain "reasons for action" and "basis for determination" held invalid for noncompliance with federal regulations, and defective notice cannot be excused by inviting

⁵ Indeed, the fact that the same federal regulation specifies the limited circumstances under which a less timely or comprehensive notice will be deemed sufficient (see 45 C.F.R., § 205.10(a)(4)(ii)-(iv)) further convinces us the federal scheme brooks no exceptions for oral or constructive notice in lieu of the more comprehensive written notice.

claimant to inquire orally as to reasons or basis]; Ortiz v. Eichler (D.C. Del. 1985) 616 F.Supp. 1046, 1061-1063 [notices which failed to fully explain "reasons for action" or "cite supporting regulations" held invalid for failure to comply with federal regulations, and ability to inquire for more detail does not cure deficiency in notice]; Turner v. Welsh (W.D. Mo. 1977) 435 F.Supp. 707, 713-714, aff'd per curiam (8th Cir. 1978) 574 F.2d 456 [written notice failing to "describe circumstances under which assistance may be continued" and inadequately describing "circumstances under which a hearing may be obtained" held invalid for failure to comply with minimum regulatory requirements].)

We perceive that since incomplete written notices are invalid for failure to convey the substantive information mandated by federal law, a fortiori the failure to give any written notice of that same substantive information is also inadequate. Yet the state regulation purports to permit that if the claimant gets no written notice (or defective notice), he is nevertheless precluded from appeal if he learned, or is charged with "constructive knowledge, of the reduction in his benefits and his right to appeal more than 90 days before his appeal is filed, despite his nonreceipt of the substantive information federal law requires the state provide in written form.

The D.S.S. argues that the regulation is valid because procedural due process is a flexible concept (Morrissey v. Brewer (1972) 408 U.S. 471, 481), and that whether a particular regulation is constitutionally sufficient requires a balancing of interests (Mathews v. Eldridge (1976) 424 U.S. 319), which D.S.S. argues should be struck in favor of upholding a regulation precluding state appeals by recipients who received actual notice. While the challenged regulation might well survive if tested against the minimum notice constitutionally mandated,⁶ the federal regulatory scheme has elected to impose an arguably higher standard of "what process is due" (*id.* at p. 333), which standard is binding on California.

The D.S.S. argues, at bottom, that notwithstanding the federal regulation, the "notice" aspect of due process is satisfied because the recipient is deemed to have obtained notice through oral or other informal inquiries. The court in Ortiz v. Eichler, *supra*, 616 F.Supp. 1046, rejected a similar argument, succinctly stating:

⁶ We note that in the seminal case of Goldberg v. Kelly, *supra*, 397 U.S. 254, the court did not find any constitutional infirmity in a system which conveyed notice by a combination of a written letter coupled with an oral conference to explain the reasons for the action. (*Id.* at p. 268.) We also recognize that "actual or constructive notice," in the context of a state scheme unencumbered by federal prescriptions, may well be validly substituted for written notice as the trigger for statutes limiting the time for challenging actions. (See Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal.3d 929, 938-940.)

"Defendants' second contention -- that notice inadequacies are unimportant because claimants can call the agency for more detailed information -- has been repeatedly rejected by other federal courts. [Citations.] The plain language of the regulatory definition of 'adequate' . . . requires written notice. Moreover, the burden of providing adequate notice rests with the state, and it cannot shift that burden to the individual by providing inadequate notice and inviting the claimant to call to receive complete notice. [citations]. As the Seventh Circuit Court of Appeals observed in Vargas v. Trainor [(7th Cir. 1974) 508 F.2d 485, 489], public assistance recipients are often less capable than other people of taking affirmative actions to protect their interests [citation]. The result of requiring claimants to make phone calls to obtain adequate notice would be that only the aggressive would receive due process, whereas the applicable regulations require the state to provide due process for all claimants." (Ortiz v. Eichler, SUPRA, 616 F.Supp. at p. 1062.)

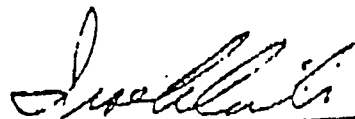
We agree that federal law mandates written notice containing specified information, and the challenged regulation is invalid to the extent it bars an appeal in the absence of compliance with federal mandates.

4. Disposition

The judgment is reversed and remanded with instructions that the trial court grant appellant's motion for summary judgment (see Darces v. Woods (1984) 35 Cal.3d 871, 895), declaring that respondent's M.P.P. section 22.009.1 ("knew or

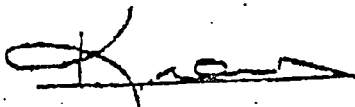
should have known standard") is invalid as violative of federal regulatory requirements, and that the court thereafter undertake such additional or ancillary proceedings as may be consistent with the views expressed herein.

CERTIFIED FOR PUBLICATION

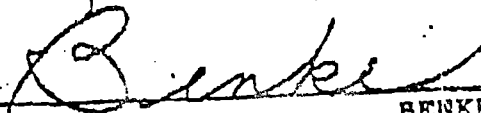


FROENLICH, J.

WE CONCUR:



KREMER, P.J.



BENKE, J.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In the office of the Secretary of State
of the State of California

FEB 15 1991

At 4:33 o'clock P.M.

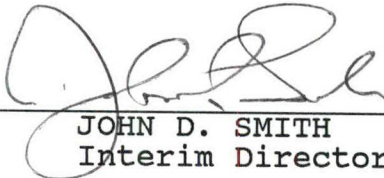
MARCH FONG EU, Secretary of State

By *Michele L. Williams*
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 91-0118-08


JOHN D. SMITH
Interim Director

02/15/91

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBER	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
	Z90-0904-01	91-0124-04C		90-0914-01E

For use by Office of Administrative Law (OAL) only

1991 JAN 24 PM 2 45

OFFICE OF
ADMINISTRATIVE LAWENDORSED
APPROVED FOR FILING

FEB 20 1991

NOTICE

REGULATIONS

AGENCY

Department of Social Services

AGENCY FILE NUMBER (If any)

RDB #0790-30

FILED

In the office of the Secretary of State
of the State of California

FEB 20 1991

At 4:17 o'clock P.M.

MARCH FONG EU, Secretary of State

By Michele Williams
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 90-#37-E	PUBLICATION DATE 9-14-90	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT	Chapter 12-300, Sections 12-301, 302 and 303
	AMEND	
TITLE(S) MPP	REPEAL	

2. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))
- ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

December 20, 1990 to January 4, 1991 (Sections 12-301 and 302)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

- ☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

1-23-91

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READoption

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt MPP Chapter 12-300 and Sections 12-301 and 12-301.1 through 12-301.3 to read:

12-300 CASE CLOSURE 12-300

12-301 GENERAL 12-301

.1 The district attorney shall establish and use a system for closing Title IV-D cases in accordance with this chapter.

.11 The district attorney shall be permitted to continue to work a case that otherwise qualifies for closure under Section 12-302, if the district attorney believes there is potential for success.

.2 Definitions of terms used in these regulations, which are common to the Child Support Enforcement Program, are found in MPP Sections 11-701, 12-101.3, and 12-601.

.3 Definitions of terms specific to these regulations are:

a. and b. (Reserved)

c.(1) Case closure -- means that Title IV-D services will no longer be provided. However, closure does not affect the support order, if the order is still current, or arrearages have accrued under the order. Although the district attorney closes a case, a support order that is current remains in effect and arrearages continue to accrue for the life of the order.

d. through zs. (Reserved)

t.(1) Transitional Child Care (TCC) -- means the TCC program administered by the Title IV-A agency in accordance with MPP Section 47-100 et seq.

u. through z. (Reserved)

Authority Cited: Sections 10554, 11475 and 11479.5, Welfare and Institutions Code.

Reference: Section 11479.5, Welfare and Institutions Code; 45 CFR Section 303.11(a); Federal Register, Vol. 54, No. 149, August 4, 1989, page 32303, comments a.1 and a.3.

Adopt MPP Sections 12-302 and 12-302.1 through 302.5 to read:

12-302 CASE CLOSURE CRITERIA

12-302

.1 Title IV-D cases qualify for closure only if they meet at least one of the following criteria:

- (a) There is no longer a current support order and arrearages are under \$500; or, arrearages are unenforceable under state law. Situations to which these criteria apply include, but are not limited to, the following:
 - (1) Reconciliation of the family or the death of a child constitutes grounds for terminating the current support order.
 - (2) Medical support orders and arrearages which accrue under such orders. Medical support arrearages would be part of the arrearages accruing under the support order if a specific dollar amount for medical support is designated in the order by a court or administrative authority.
- (b) The absent parent or putative father is deceased and both of the following apply:
 - (1) No further action can be taken, including a levy against the estate.
 - (2) The district attorney has documented the attempts to identify assets which could be levied and the attempts were unsuccessful.
- (c) Paternity cannot be established because of one of the following:
 - (1) A genetic test or court or administrative process has excluded the putative father and no other putative father can be identified.
 - (2) The district attorney determines that the child's best interest will not be served by establishing paternity because incest or rape was involved, or legal proceedings for adoption are pending.
- (d) The absent parent's location is unknown and the district attorney has made quarterly attempts for three years, using multiple sources, to locate the absent parent, all of which have been unsuccessful.

- (e) The absent parent cannot pay support for the duration of the child's minority for any of the three reasons stated below and the district attorney determines that no income or assets are available to the absent parent which could be levied or attached for support:
- (1) The absent parent is institutionalized in a psychiatric facility.
 - (2) The absent parent is incarcerated with no chance of parole.
 - (3) The absent parent has a medically verified total and permanent disability with no evidence of support potential.
- (f) The absent parent lives in a foreign country and all of the following apply:
- (1) The absent parent is a citizen of a foreign country.
 - (2) The absent parent does not work for the United States government or a company which has its headquarters or offices in the United States.
 - (3) The absent parent has no reachable domestic income or assets.
 - (4) The state is unable to establish reciprocity with the country.
- (g) The district attorney has provided location-only services as requested by the custodial parent, legal guardian, attorney, or agent of a child who is not receiving AFDC, whether or not such services were successful.
- (h) The non-AFDC custodial parent requests closure of a case and any arrearages assigned to the state are under \$500.
- (i) There has been a finding of good cause and the state or local welfare (Title IV-A) or foster care (Title IV-E) agency has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative. (See MPP Section 43-107.4 for good cause criteria.)

- (j) The district attorney is unable to contact the non-AFDC custodial parent over a 30-calendar-day period despite attempts to contact the parent both by phone and letter, including at least one certified, return receipt, letter.
- (k) The non-AFDC custodial parent is uncooperative and both of the following apply:
 - (1) The district attorney documents the circumstances of noncooperation in the case file.
 - (2) An action by the custodial parent is essential for the next step in providing Title IV-D services.
- (l) The case involves only the establishment of an order for the reimbursement of aid and all of the following apply:
 - (1) Aid has terminated.
 - (2) The absent parent is located.
 - (3) The absent parent refuses to stipulate to a reimbursement order.
 - (4) Court ordered reimbursement cannot reasonably be expected to exceed \$1,000.
- (m) The custodial parent has moved to another county or state and both of the following apply:
 - (1) The custodial parent applied for services in the other county or state.
 - (2) The district attorney documents in the case file that contact was made with the other county or state to confirm that the custodial parent has applied for services in the other county or state, or, in the case of an intercounty transfer, to confirm that the case has been transferred.

.2 The district attorney shall notify the custodial parent of the Title IV-D agency's intent to close the case.

.21 Notice of case closure to the custodial parent need not be provided for cases closed under Sections 12-302.1(g), .1(h), or .1(i).

.22 When cases are being closed under Sections 12-302.1(h), (j), or (k) and the non-AFDC custodial parent is receiving TCC, the district attorney shall notify the Title IV-A agency about the cases being closed.

.3 Notice of case closure shall be sent in writing 60 calendar days prior to closing the case.

(a) The notice of intent to close the case must provide, at a minimum, the following information:

(1) The reason why the case is being closed.

(2) The circumstances under which the case could be reopened, such as new information regarding the absent parent's location.

(3) A telephone number and address where questions concerning the case closure notice can be directed.

(#b) The case shall be kept open if the custodial parent responds to the closure notice with information that could lead to the establishment of paternity or a support order or enforcement of an order.

(#c) The case shall remain open if contact is re-established with the custodial parent in the instance of Section 12-302.1(j).

.4 The case shall be considered for reopening at a later date if the custodial parent requests that the case be reopened and can provide information that could lead to the establishment of paternity or a support order or enforcement of an order.

Authority Cited: Sections 10554, 11475 and 11479.5, Welfare and Institutions Code.

Reference: 45 CFR Sections 302.35(c)(3), 303.3(b)(5), 303.11(b)(1) through (b)(12), and (c); Sections 11350 and 11479.5, Welfare and Institutions Code; Federal Register, Vol. 54, No. 149, dated August 4, 1989, page 32304, comments b.3, b.4 and c.2 and page 32306, comment k; Federal Register, Vol. 54, No. 98, dated May 23, 1989, page 22328, first column, second paragraph; Sections 4700(c) and 7006(a)(1), Civil Code; and Office of Child Support Enforcement letter dated November 3, 1989.

Adopt MPP Sections 12-303 and 12-303.1 through 12-303.112 to read:

12-303 RECORD RETENTION

12-303

- .1 Closed Title IV-D case records shall be retained for a minimum of three years from the date the State Department of Social Services submits the last expenditure report for the last quarter of the federal fiscal year to the Department of Health and Human Services.
- .11 Records and supporting documentation shall be retained longer when:
 - .111 They are the subject of an open federal and state audit.
 - .112 They are the subject of a pending civil litigation or when a court orders that such records be retained for an extended period.

Authority Cited: Sections 10554, 11475 and 11479.5, Welfare and Institutions Code.

Reference: 45 CFR Section 303.11(d); 45 CFR Part 74, Subpart D, Sections 74.20, .21(a) and (b) and .22(a); and Section 11479.5, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In the office of the Secretary of State
of the State of California

FEB 20 1991

At 4:17 o'clock P.M.

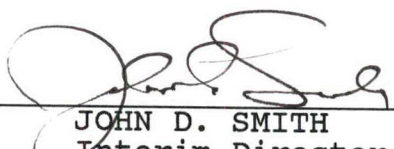
MARCH FONG EU, Secretary of State

By Nicheale L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 91-0124-04


JOHN D. SMITH
Interim Director

02/20/91

NOTICE PUBLICATION/REGULATIONS SUBMISSION

See instructions on reverse

For use by Secretary of State only

STD. 400 (REV. 7-89)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER 77-0122-055	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
For use by Office of Administrative Law (OAL) only				
<p style="text-align: center;">1991 JAN 22 PM 4:45</p> <p style="text-align: center;">OFFICE OF ADMINISTRATIVE LAW ENDORSED APPROVED FOR FILING FEB 21 1991</p> <p style="text-align: center;">Office of Administrative Law REGULATIONS</p>				
AGENCY Department of Social Services			AGENCY FILE NUMBER (if any) RDB# 0690-27	

FILED
In the office of the Secretary of State
of the State of California

FEB 21 1991
At 4:32 o'clock P.M.
MARGH FONG EU, Secretary of State
By: *Michael J. Williams*
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 90-AB552	PUBLICATION DATE 8-31-90	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED MPP	ADOPT	63-083
	AMEND	63-102, 63-300, 63-402, 63-406, 63-502, 63-503, and 63-801
	REPEAL	

2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

December 3, 1990 through 5:00 p.m., December 18, 1990

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Rosalie Clark, Chief Regulations Development Bureau

TELEPHONE NUMBER

445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

1-15-91

TYPED NAME AND TITLE OF SIGNATORY

LINDA S. McMAHON, DIRECTOR

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTON

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.


DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

63-083 IMPLEMENTATION OF REGULATIONS FOR
CLEAN UP PACKAGE #2

.1 Effective on the first of the month 30 days after filing with the Secretary of State, the CWDs shall implement the revised and adopted provisions. The Sections affected are as follows: 63-102c.(5) through (10); 63-102i.(5); 63-300.6 through .623; 63-402.1; 63-402.213; 63-402.31 through .344; 63-402.4 through .41; 63-402.811 through .85; 63-406.21; 63-502.34 through .352(a)(5); 63-503.471(a); and 63-801.512.

Reference: Sections 10554 and 18904, Welfare and Institutions Code.

Amend Section 63-102c. to read:

63-102 DEFINITIONS (Continued)

63-102

c. (1) through (4) (Continued)

(5) "Commercial boarding house" means an establishment licensed as an enterprise which offers meals and lodging for compensation and profit. In a county without licensing requirements, a commercial boarding house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intent of making a profit. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise.

(~~6~~) (Continued)

(~~7~~) (Continued)

(~~7~~8) (Continued)

(~~8~~9) (Continued)

(~~9~~10) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.1(c)(5).

Amend Section 63-102i.(5) to read:

63-102 DEFINITIONS (Continued)

63-102

1. (Continued)

- (5) "Institution of higher education" means any educational institution which normally requires a high school diploma or equivalency certificate for enrollment, including but not limited to, colleges, universities, and vocational or technical schools at the post-high school level. Some institutions, which normally require a high school diploma or equivalent, make exceptions for certain students who the institution feels can benefit from the program offered even though the student has not graduated from high school. In such cases, these institutions are still to be considered "institutions of higher education." Community or junior colleges, which do not require a high school diploma or equivalency certificate for students 18 years of age and older, also are considered "institutions of higher education".

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 271.2 and Sections 91, 66000, and 66011, Education Code.

Amend Section 63-300 to add .6 et seq. to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.6 Receipt of Verification/Documentation

Upon request, CWDs shall provide a written receipt to any applicant or recipient who hand delivers documents that have been requested by the CWD. Receipts shall only be provided for documents which have been delivered in person to a CWD employee other than the applicant's or recipient's regularly assigned caseworker and to the location in which or through which the caseworker conducts his or her business. (Only one receipt is required for monthly income reports and their supporting documents.)

.61 Notice of Right to a Receipt

CWDs shall post a notice of the applicant's or recipient's right to a receipt in a prominent location and in an area where documents are regularly received.

.62 Exemptions from Receipt Requirements

.621 A CWD which maintains a system of logging hand delivered documents shall be exempt from the requirement to provide a receipt or post notice of right to a receipt.

.622 A CWD which provides receipts for all hand delivered documents without a request by an applicant or recipient shall be exempt from the notice posting requirement.

.623 A CWD which receives monthly income reports and other requested documents which have been mailed by the applicant or recipient shall not be subject to the requirements in this section.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 11023.5, Welfare and Institutions Code.

Amend Section 63-402.1 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.1 Household definition

A household may be composed of any of the following individuals or groups of individuals, provided that such individuals or groups are not residents of an institution, except as otherwise specified in Section 63-402.4, ~~or~~ residents of a commercial boarding house, or boarders, except as otherwise specified in Section 63-402.31:
(Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.1(a)(1).

Amend Section 63-402.213 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.2 (Continued)

.21 (Continued)

.211 (Continued)

.212 (Continued)

.213 Others

Other individuals who share living quarters with the household but who do not customarily purchase and prepare meals with the household.

BEGIN HANDBOOK HERE

- (a) For example, if the applicant household shares living quarters with another family to save on rent but does not purchase and prepare food together with that family, the members of the other family are not members of the applicant household. Also, an individual or family which, because of a temporary loss of income, situation, was forced to move into the home of friends or relatives, under such circumstances, that person or family which customarily purchases food and prepares meals separately, from the household that took them in could apply as a separate household.

HANDBOOK ENDS HERE

.22 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.1(b)(iii).

Amend and reformat Section 63-402.3 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.3 Boarders

.31 For Program purposes, boarders are defined as individuals or groups of individuals residing with the household and paying reasonable compensation to the household for lodging and meals, excluding residents of a commercial boarding house. ~~(See section 63-402.32)~~ A reasonable monthly payment shall be either of the following:

~~(a)~~ .311 (Continued)

~~(b)~~ .312 (Continued)

.312 (Continued)

.3121 Such individual shall not be considered a member of a participant or applicant household, nor shall the income and resources of boarders be considered available to such households. However, the amount of payment that a boarder gives to a household for lodging and meals shall be treated as self-employment income to the household. The procedures for handling self-employment income from boarders (other than such income received by a household that owns and operates a commercial boarding house) are ~~set forth~~ specified in 63-503.42. The procedures for handling income from boarders by a household that owns and operates a commercial boarding house are ~~set forth~~ as specified in 63-503.41. For program purposes a commercial boarding house is defined as an establishment licensed as a commercial enterprise which offers meals and lodging for compensation. In counties without licensing requirements, a boarding house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intent of making a profit. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise.

.323 Except for residents of a commercial boarding house, an individual furnished both meals and lodging by the household, but paying compensation of less than a reasonable amount, will be considered a member of the household which provides the meals and lodging.

.331 When payments for the room are distinguishable from payments for the meals, only the amount paid for meals will be evaluated to determine if reasonable compensation is being paid for meals. The reasonable monthly payment for meals shall be paid in cash.

.332 When payments for the room are indistinguishable from payments for meals, the amount to be considered as payment for the meals will be:

(a) The total payment, if the total payment is equal to, or less than the monthly coupon allotment at zero net income for the appropriate number of boarders as specified in the Tables of Coupon Issuance/ Handbook Section 83-1101, or

(b) That portion of the total payment that is equal to the monthly coupon allotment at zero net income for the appropriate number of boarders as specified in the Tables of Coupon Issuance/ Handbook Section 83-1101.

.334 (Continued)

.341 (Continued)

.342 (Continued)

.343 (Continued)

.344 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code.

Amend Section 63-402.4 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.4 Residents of Institutions

Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services. Residents of institutions are not eligible for participation in the Food Stamp Program. As commercial boarding houses fall under this category, residents of commercial boarding houses are not eligible for participation in the Food Stamp Program. The following individuals shall not be considered as residents of institutions:

- .41 Residents of any federally subsidized housing for the elderly/ ~~will not be under either section 202 of the Housing Act of 1959 or section 236 of the National Housing Act.~~

- .42 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.1(c) and 273.1(e)(1).

Amend Section 63-402.8 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.8 Participation of Strikers (Continued)

.81 (Continued)

.811 The following persons shall not be considered strikers:

- (a) ~~Employees~~ whose workplace is closed by an employer in order to resist demands of employees (e.g., a lockout);
- (b) ~~Employees~~ unable to work as a result of striking employees;
- (c) ~~Employees~~ not wanting to cross a picket line due to fear of personal injury or death;
- (d) (Continued)
- (e) Employees whose employers have hired permanent replacements for the striking employees' jobs. The fact that the striking employees are offered other jobs does not affect their status as they must be able to return to the same job.

.82 Households with striking members shall be ineligible to participate in the Food Stamp Program unless the household was eligible one day prior to involvement in the strike action and on the date of application. The CWD shall perform two separate eligibility determinations.

.821 To determine pre-strike eligibility, based on circumstances one consider the day prior to the household member's involvement in the strike action/ as the day of interview and assume the strike did not occur. The CWD shall use the household's income as it stood one day prior to the member's involvement in strike action/

§.822 To determine eligibility under current circumstances, in determining the eligibility of the striker's household during strike action, the CWD shall compare the striker's income as it stood one day prior to the member's involvement in the strike to any, comparing the striking member's income before the strike to the striker's income which can be anticipated with reasonable certainty during the strike income anticipated by the striker such as, but not limited to, (e.g., income from the receipt of strike benefits or temporary employment during the strike). The higher of the two amounts shall be added to anticipated the income of nonstriking members during the month of application.

.823 To determine benefits and eligibility for households subject to the net income eligibility standard, deductions shall be calculated for the month of application as for any household. Whether the striker's prestrike earnings are used income or his current income during the strike is used, the earnings income deductions shall be allowed as specified in section 837 303/311 and 312/ if applicable. Benefit level of an eligible striker household is based on current circumstances except for income as specified above.

.83 CWDs shall use the method as specified in Section 63-402.82 in determining benefits and eligibility for continuing households when a member becomes involved in a strike. Such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household.

.834 (Continued)

.845 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.1(g) and 273.10(c) (1)(i); USDA Administrative Notice 89/65/Policy Memo 89-11 and 89-12.

Amend Section 63-406.21 to read:

63-406 STUDENTS (Continued)

63-406

.2 Eligibility Requirements

- .21 In order to be eligible to participate in the Food Stamp Program, any student (as defined in Section 63-406.1) shall meet at least one of the following criteria on the date of ~~application~~ the interview:
(Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.10(b) and Sections 10554 and 18904, Welfare and Institutions Code.

Amend Sections 63-502.34 and 63-502.352 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS
(Continued)

63-502

.3 Income Deduction (Continued)

.34 Dependent care/

Payments, not exceeding the maximum dependent care deduction, for the actual costs for the care of a child or other dependent when necessary for a household member to:

.341 ~~Accept~~ or continue employment/;

.342 Comply with the Food Stamp Employment Training (FSET) Program requirements as specified in Section 63-407.8 ~~seek employment in compliance with the job search criteria~~ (or an equivalent effort to seek employment by those not subject to ~~job search~~/ FSET; or

.343 ~~Attend~~ training or pursue education which is preparatory to employment. This deduction shall not exceed the current maximum as specified in Handbook Section 63-1101/

.35 Shelter Costs. (Continued)

.352 Standard Utility Allowance

(a) The standard utility allowance (SUA) may be used in calculating shelter costs of those households which incur heating or cooling costs separate and apart from their rent or mortgage payments, including residents of rental housing who are billed on a monthly basis by their landlords for actual usage as determined through individual metering (Continued)

(3) When two or more food stamp households are in a shared living situation, the total amount of utility costs used to determine the amount of the deduction for each household shall not exceed the total amount of actual utility costs for the residence.

(~~7~~4) (Continued)

(~~4~~5) (Continued)

(b) (Continued)

(c) (Continued)

(d) (Continued)

(e) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and
Institutions Code.

Reference: 7 CFR 273.7(f), 273.9(d)(4) and
273.9(d)(6)(vii).

Amend Section 63-503.471(a) to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY
AND BENEFIT LEVELS (Continued)

63-503

.4 Households with Self-Employment Income (Continued)

.471 (Continued)

- (a) Prior to certifying any residents for food stamps, the CWD shall verify that the treatment center is authorized by FNS as a retailer, or meets the eligibility criteria to receive funding under Part B of Title XIX of the Public Health Service Act (42 USC 300x et seq.) as shown by the possession of the following appropriate State Department of Alcohol and Drug Program documents/.

(1) In alcohol treatment and recovery homes/ either a certification for Food Stamps (ADA-170)/ or a Program Approval for Alcoholic Recovery Home/

(2) For drug treatment and recovery homes/ a Food Stamps Approval Letter/

- (b) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.11(e)(1).

Amend Section 63-801.512 to read

63-801 CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

.5 Suspending and Terminating Collection of Claims (Continued)

.51 (Continued)

.511 (Continued)

.512 If collection action was initiated, and at least one demand letter has been sent, the CWD ~~shall~~ may be permitted to suspend further collection action of an inadvertent household or ~~admittedly~~ error claim against a nonparticipating household or ~~its portion of an administrative error claim against a participating or nonparticipating household~~ when:

(a) The household cannot be located; or

(b) The cost of further collection action is likely to exceed the amount that can be recovered.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.18(e)(1).

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In the office of the Secretary of State
of the State of California

FEB 21 1991

At 432 o'clock P.M.

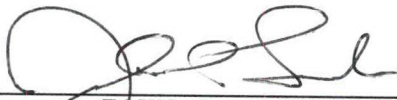
MARCH FONG EU, Secretary of State

By Nicheale L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the
rulemaking file identified below were reviewed and approved
by the Director of the Office of Administrative Law in the
City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 91-0122-05



JOHN D. SMITH
Interim Director

02/21/91

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-90-0720-04	REGULATORY ACTION NUMBER 91-0128-040	EMERGENCY NUMBER 90-0920-04E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

1991 JAN 28 PM 4:05

OFFICE OF
ADMINISTRATIVE LAWENDORSED
APPROVED FOR FILING

FEB 21 1991

Office of Regulations and Law

NOTICE

AGENCY

State Department of Social Services

AGENCY FILE NUMBER (if any)

#0590-19

FILED

In the office of the Secretary of State
of the State of California

FEB 21 1991

At 4:32 o'clock P.M.

MARCH FONG EU, Secretary of State

By: [Signature] Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 90, #B1-7	PUBLICATION DATE 8-3-90	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT	42-750.7
	AMEND	22-022.5, 42-786.41, and 42-787.13
	REPEAL	
TITLE(S) MPP		

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not applicable

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

[Signature]

DATE

1-24-91

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

- .5 Except as provided in Sections 22-054.1, 22-022.6, 22-023.122, and 41-440.12(i), when the claimant files a request for a state hearing prior to the effective date of the notice of action which is subject to Section 22-022.1, aid shall be continued in the amount that the claimant would have been paid if the proposed action were not to be taken, provided the claimant does not voluntarily and knowingly waive aid. This section shall not apply to Greater Avenues for Independence (GAIN) supportive services payments (see Section 42-750.7). In the Food Stamp Program, benefits shall be continued on the basis authorized immediately prior to the notice of adverse action. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

- .7 When a participant requests a hearing within the period of timely notification (see Section 22-022.5) to appeal a suspension, reduction or termination of GAIN supportive services or a change in the method of providing such services, the participant shall not be entitled to a continuation of GAIN supportive services in the same amount or form pending the hearing decision. The participant shall be entitled to supportive services only at the level and in the form authorized by the county action under appeal.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

.4 The discontinuance from aid shall become effective at the end of the month following the CWD's timely and adequate notification (see Section 22-022.1), except as specified in Sections 42-786.41 and 42-787.61 below:

.41 If the recipient appeals the sanction through the state hearing process within the period of timely notification, no sanction shall be imposed until the hearing decision is reached. However, pending the hearing decision, GAIN supportive services shall be available to the recipient only at the level and in the form authorized by the county action under appeal. (see Section 42-750.7). (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

.1 State Hearing (Continued)

- .13 With the exception of GAIN supportive services (see Section 42-750.7), aid will continue if the individual appeals through the state hearing process within the period of timely notification (see Section 42-786.41).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(2).

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In the office of the Secretary of State
of the State of California

FEB 21 1991

At 4:32 o'clock P.M.

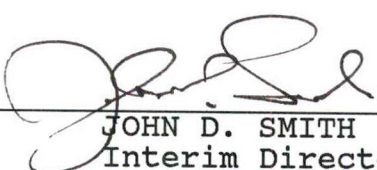
MARCH FONG EU, Secretary of State

By Richard L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 91-0128-04



JOHN D. SMITH
Interim Director

02/21/91

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z90-0904-01	REGULATORY ACTION NUMBER 91-0128-050	EMERGENCY NUMBER 90-0920-03E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

FILEDIn the office of the Secretary of State
of the State of California

1991 JAN 28 PM 4:05

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
FEB 21 1991

FEB 21 1991

At 4:30 o'clock P.M.

MARION FONG EU, Secretary of State

By *Michael Williams*
Deputy Secretary of State

NOTICE

AGENCY

State Department of Social Services

AGENCY FILE NUMBER (if any)

RDB #0790-32

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 90-#39-2	PUBLICATION DATE 9-14-90

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	Section 40-006
TITLE(S) <i>MPP</i>	AMEND
	Sections 40-107.1, 131.3, and 169; 44-111.3, 205.4, 206.1 and 206.2
	REPEAL

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

January 4, 1991 - January 22, 1991 Section 40-107.1

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

1-28-91

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READoption

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt New Section 40-006 to read:

40-006 IMPLEMENTATION OF THE AFDC/GAIN (JOBS)
CONFORMING REGULATIONS

40-006

- .1 This regulatory action consists of adopting, amending or repealing language in the following sections in order to bring Aid to Families with Dependent Children (AFDC) regulations into conformity with the Job Opportunities and Basic Skills Training (JOBS) provisions of the Family Support Act of 1988 (Public Law 100-485) and to implement federal regulation [45 CFR 250.40] which requires that AFDC applicants and recipients are informed about the Greater Avenues for Independence (GAIN) Program. Amend Sections: 40-107.1, 40-131.3, 40-169, 44-111.3(f), 44-205.4; and renumber and amend Section 44-206.22 to 44-206.1(d) (5).
- .2 The effective date of these regulations shall be October 1, 1990.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 204(a), Public Law 100-485; 45 CFR 250.20(a)(1); and Section 15, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 40-107.1 to read:

40-107 COUNTY RESPONSIBILITY

40-107

.1 Assisting the Applicant (Continued)

- .11 The applicant shall be informed at the time of application that the law requires furnishing an SSN (Section 40-105) and assignment of accrued support rights (Section 43-106) as conditions of eligibility/. The applicant/recipient shall also be informed, in writing, at the time of application or redetermination, that the law requires cooperation in establishing paternity and securing support rights (Section 43-201) as conditions of eligibility/ ~~assignment of accrued support rights (Section 43-106) and furnishing an SSN (Section 40-105).~~ (Continued)
- .16 Applicants/recipients shall receive written information at the time of application or at their first redetermination after implementation of GAIN regarding the GAIN Program as to the following:
- .161 A description of the program;
- .162 The availability of job training, employment, education and supportive services, including the types and locations of child care services and the assistance available to select and obtain such services, and Transitional Child Care (TCC) Program benefits;
- .163 The individual's rights and responsibilities;
- .164 The consequences of failure or refusal to participate in the GAIN Program;
- .165 The grounds for exemption from participation in the GAIN Program; and
- .166 The obligations of the county welfare department (CWD) in providing GAIN services.
- .17 Applicants/recipients shall be informed by the CWD orally, as needed, to clarify written information regarding the GAIN Program ~~orally/ as needed/ to clarify written information~~ and/or the requirement for cooperation in establishing paternity and securing support rights.

.18 The CWD shall provide written notification of the opportunity to express a desire to participate in the GAIN Program and provide a clear description of how to enter the GAIN Program to:

.181 Applicants, upon application, but not later than 30 days from the determination of eligibility for aid; and

.182 Recipients, at redetermination, but not later than 30 days after being informed in accordance with Section 40-107.16.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. Sections 682(c)(2), (3), (4) and (5); 45 CFR Sections 250.40(a), (c)(1) and (2); and Sections 11324.8(a) and (f)(1), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 40-131.3 to read:

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

.3 Content of Application Interview

The application interview shall include discussion of the following as pertinent: (Continued)

- s. The availability of program activities and supportive services of the GAIN Program for which applicants and recipients may be eligible. (See Sections 40-107.16 and .17.)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. Sections 682(c)(2), (3) and (4); 45 CFR 250.40(a); and Section 11324.8(a), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Sections 40-169 (Title) and .1 to read:

40-169 GAIN PARTICIPATION OR EMPLOYMENT REGISTRATION 40-169
REQUIREMENTS FOR PERSONS APPLYING FOR AFDC OR
INCLUDED IN THE ASSISTANCE UNIT

.1 Federally eligible persons, including essential persons, who are not exempt under Sections 42-788 through 42-799 are automatically registered with GAIN.

.11 Included are principal earners who establish federal AFDC-U eligibility for the family under Section 42-625.1.

.12 For purposes of this section, persons automatically registered with GAIN shall be considered available for participation in the GAIN Program and shall participate in GAIN Program activities when directed to do so by the CWD.

.2 (Continued)

.3 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 202(a), Public Law 100-485; 45 CFR 224.0(c) and 233.100(a)(5)(i); and Sections 11310(a), 11320.4(a) and 11324.8(a)(2), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 44-111.3(f) to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

.3 (Continued)

(f) Advance payments or reimbursements made by GAIN for supportive services are exempt from consideration as income.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. Section 602(g)(1)(E)(i); Section 202(a), Public Law 100-485; and 45 CFR 224.0(c) and 233.20(a)(11)(v)(C).

Amend Section 44-205.4 to read:

44-205 ESTABLISHING THE FBU (Continued)

44-205

.4 Persons Who are Required to be Included in the Assistance Unit (AU)

- .41 Every AU shall include at least one eligible child or pregnant woman with the following exceptions: when the only otherwise eligible child in the home must be excluded due to receipt of SSI/SSP (see Section 44-206.1(a)), or is being sanctioned under Section 42-786, that child shall be considered the basis for establishing an AU for the needy relative(s) when the child meets the criteria specified in Section 44-203.1. The AU shall also include the following persons living in the home, except as specified under Section 44-205.42: (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 602(a)(19)(G)(i)(I); 54 FR 42172 (October 13, 1989); 45 CFR 250.34(c)(3); and Section 11327.5(c)(3), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Renumber Section 44-206.22 to Section 44-206.1(d)(5) and amend to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE ASSISTANCE 44-206
UNIT (AU) (Continued)

.1 (Continued)

(d) (Continued)

(5) An AFDC principal earner has been sanctioned under GAIN requirements in Section 42-786.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. 602(a)(19)(G)(i)(I) and (II); Section 202(a), Public Law 100-485; 45 CFR 224.0(c) and 250.34(c)(1) and (2); and Section 11327.5(c)(1), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend and Renumber Section 44-206.2 to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE ASSISTANCE UNIT (AU) (Continued) 44-206

.2 (Continued)

.21 (Continued)

HANDBOOK BEGINS HERE

.214 The entire family that is ineligible for aid under Section 44-206.21, may be eligible for benefits under the State-only AFDC-U Programs (see Section 41-703).

HANDBOOK ENDS HERE

.22 (Continued)

.23 (Continued)

.24 (Continued)

.25 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

FEB 21 1991

At 4:32 o'clock P.M.

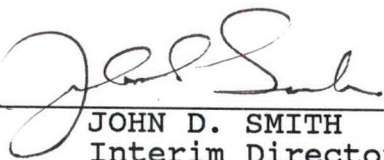
MARCH FONG EU, Secretary of State

By Michael L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 91-0128-05


JOHN D. SMITH
Interim Director

02/21/91

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
	2-290-0918-03	91-0128-03C	90-0920-02E	

For use by Office of Administrative Law (OAL) only

FILED
In the office of the Secretary of State
of the State of California

1991 JAN 28 PM 3:59
OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
FEB 27 1991

FEB 27 1991

At 4:09 o'clock P.M.

MARION FONG EU, Secretary of State

By: *Michael R. Williams*
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY

Department of Social Services

RDB #0790-31

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE		
		90, #39-2	9-28-90		

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT	Sections 42-750.1 through .6; 42-750.8 and .9; 42-760.8; and 42-788.1 and .2
	AMEND	(see attachment #1)
	REPEAL	Section 42-788
TITLE(S) MPP		

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

December 31, 1990 through January 16, 1991- (see attachment #2)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Rosalie P. Clark, Chief Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

1-28-91

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTIO

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Attachment 1

Amend Sections:

42-720.1 through 6
42-730.1 through .5
42-740.1 and .2
42-750.1 through .6
42-751.1 through .6
42-761.3 and .4
42-771.5
42-772.4 through .7
42-774.1 and .2
42-781.1 through .9
42-782.1 and .3
42-783.1
42-784.4 and .5
42-786.1, .2, .3, .4, and .7
42-790.1
42-792.1
42-793.1
42-794.1
42-799.1, .2, and .3

Attachment 2

Sections made available for 15-Day comment.

42-720.324
42-720.412(d)(1)
42-720.63 and .633(a) and (b)
42-730.1
42-730.271
42-740.14 and .17
42-750.2
42-750.362 and .363
42-750.62, .621, .622, .623, .624, .625, .626,
.627 and .628
42-751.121
42-751.31, .311 and .321(a)(1)
42-751.432, .44 and .443
42-772.11, .22 and .31
42-772.4
42-772.742
42-781.211(h) and .22
42-781.71 and .715
42-782.1(i)(2)
42-782.2
42-783.1(m)
42-786.211

Amend Sections 42-720.13, to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.13 The primary GAIN participants are AFDC applicants and recipients. The county may also provide services to refugees receiving or applying for Refugee Cash Assistance (RCA) and/or to General Assistance applicants and recipients, except that no funds appropriated for GAIN shall be used to serve these individuals.

.131 If a county elects to serve these individuals, the county shall maintain separate accounting records of expenditures for AFDC applicants and recipients and for RCA and General Assistance applicants and recipients.

.132 (Continued)

.133 (Continued)

.134 (Continued)

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 42-720.22 and 42-720.324(a) to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.2 Time Frames

.21 (Continued)

.22 (Continued)

.23 (Continued)

.3 County Plan Content

.31 (Continued)

.32 (Continued)

.321 (Continued)

.322 (Continued)

.323 (Continued)

.324 The amount and kind of services required to meet the full employment goal for all registrants.

- (a) The CWD shall study the characteristics of its potential participant caseload. From this caseload analysis, the CWD shall specify which groups of potential participants it plans to ~~serve~~ target for services consistent with the priority order for program participation specified in Sections 42-720.632 and .633. The CWD shall explain why it chose these groups.

Authority Cited: Section 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11320.6(b), 11321.2 and 11322.4, Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-720.3, .4 and .5 to read:

42-720 THE GAIN COUNTY PLAN

42-720

.1 (Continued)

.2 (Continued)

.3 (Continued)

.31 (Continued)

.32 (Continued)

.321 (Continued)

.322 (Continued)

.323 (Continued)

.324 (Continued)

.325 (Continued)

(a) (Continued)

(b) (Continued)

(c) The plan shall contain a description of the required services that are available to custodial parents under the age of 18 who are required to participate in GAIN. All of the following shall be included:

(1) An identification of education and supportive services available to teenagers.

(2) The extent to which the programs providing these services are currently serving AFDC recipients.

(3) The resources that these programs may make available to GAIN participants.

(4) The linkages that the CWD has established or plans to establish with these programs.

(5) A description of the method of providing the case management services as described in Section 42-772.76. If the CWD chooses to contract out some or all of the case management services, the plan shall list the specific reasons for that decision.

(d) A county plan update containing the requirements of Section 42-720.325(c) shall be submitted to SDSS no later than March 1, 1991.

.326 (Continued)

.33 (Continued)

.34 (Continued)

.35 (Continued)

.4 County Board of Supervisors Plan Approval

.41 (Continued)

.411 In approving the plan, the board shall consider the views presented by affected parties, and include these views as part of the record of the public hearing. The county shall ensure that these records are available for three years.

(a) The CWD shall provide evidence of public notification allowing for adequate notice to and comments from affected groups and individuals in the county plan.

(b) (Continued)

.412 Annual updates and any significant revisions to the county plan shall be approved by the county board of supervisors.

(a) (Continued)

(b) (Continued)

(c) (Continued)

- (d) Each county shall make available a copy of its annual or significantly revised plan to any local Private Industry Council (PIC), local legal aid and welfare rights representatives and public housing authorities operating within its jurisdiction for review and comment prior to submission.

(1) When submitted, the annual or significantly revised plan ~~update~~ shall be accompanied by a letter from any affected PICs certifying the level of local cooperation, including joint planning and the use of local labor market information.

.5 SDSS County Plan Approval

- .51 Prior to implementation and at the beginning of each fiscal year following the initial plan approval, each plan shall be approved by SDSS. Any significant revision of a county plan must also be approved by SDSS prior to implementation.

HANDBOOK BEGINS HERE

- .52 (Continued)

HANDBOOK ENDS HERE

- .53 (Continued)

.531 (Continued)

.532 (Continued)

- .54 (Continued)

- .55 (Continued)

- .56 (Continued)

- .57 SDSS approval of a county plan shall be dependent upon but not limited to the following:

.571 (Continued)

.572 (Continued)

.573 Whether the plan contains an identification of, and linkages or planned linkages to, education and supportive services and a description of the case management services available to custodial parents under the age of 18, as specified in Section 42-720.325(c).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11320.8(c), 11321, 11321.2(a), 11330.5(d), 11330.8(c) and 11330.9, Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; and 45 CFR 250.12(c).

Amend Section 42.720.6 to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.6 GAIN TARGET POPULATION PRIORITY

.61 (Continued)

.62 (Continued)

.621 (Continued)

.622 (Continued)

.623 A statement proposing to reduce costs in a manner which gives priority to the target population as specified in Section 42-720.63.

.63 CWD cost reductions must be achieved primarily by reducing the number of participants in the program in the priority order of groups described in Sections 42-720.632 and 42-720.633, taking into account the target population described in 42-720.635. CWDs may make program efficiencies to the extent that these do not threaten the guarantee of services and do not create an effective barrier to participation on the part of current or future GAIN clients.

HANDBOOK BEGINS HERE

.631 Examples of program efficiencies which do not threaten the guarantee of GAIN services include, but are not limited to, the following:

- (a) Consolidation of GAIN offices when this would allow maintenance of the full range of services to GAIN participants.
- (b) Changes in administrative procedures which would result in the elimination of staff positions or certain services providers but still maintain the full range of services to GAIN participants.

HANDBOOK ENDS HERE

.632 If funds are sufficient to serve all existing participants, but not sufficient to serve all potential GAIN participants, CWDs shall bring new individuals into GAIN according to the following list beginning with the highest priority:

(a) Members of the target population who are required to register for GAIN and who volunteer to participate in GAIN.

(b) Members of the target population who are exempt from the requirement to register for GAIN and who volunteer to participate in GAIN.

(c) AFDC applicants and recipients who are required to register for GAIN and are members of the target population and who do not volunteer to participate in GAIN.

(d) Recipients of AFDC who are not members of the target population.

(e) Applicants for AFDC who are not members of the target population.

.633 Existing participants shall receive the highest priority for GAIN participation. If, after halting intake as specified in Section 42-720.632, resources are not sufficient to serve all existing participants, priority for continuing participation shall be extended to groups listed in the following order beginning with highest priority:

(a) Existing participants who are members of the target population who volunteer, at the time they are notified of a reduction, for further program participation;

(b) Existing participants who are members of the target population who do not volunteer, at the time they are notified of a reduction, for further program participation;

(c) Existing participants who are not members of the target population;

.634 The following conditions shall apply to designated priority groups described in Sections 42-720.632 and 42-720.633:

(a) Existing participants described in Section 42-720.633 would include individuals who are between activities and those who have been deferred in accordance with Section 42-761.4.

(b) Individuals described in Section 42-720.632(d) and (e) who have received AFDC for one year or more in the preceding two years shall receive higher priority within their respective groups.

(c) For purposes of Sections 42-720.632(a), and 42-720.633(a) and (b), only, a volunteer is an individual who expresses a desire to participate in GAIN regardless of whether the individual is a mandatory GAIN registrant or exempt from registration.

.635 Target population means a group composed of all GAIN-eligible individuals who are:

(a) Applicants for AFDC who have received AFDC (including those under the Refugee Demonstration Project (RDP)) for at least 36 of the 60 months immediately preceding the most recent month for which application has been made.

(b) Recipients of AFDC who have received AFDC (including those under RDP) for at least 36 of the most recent 60 months.

(c) Custodial parents under the age of 24 who:

(1) had little or no work experience in the preceding year, which means that during the preceding 12 months, they had no more than a three-month continuous period of full-time employment compensated at least at the California minimum wage level, or

(2) have not completed a high school education and are not enrolled in high school or in a high school equivalency course of instruction.

(d) Members of a family in which the youngest child is within two years of becoming ineligible for AFDC due to age.

HANDBOOK BEGINS HERE

.64 SDSS will review and respond to a CWD's proposed plan revision to achieve cost reductions within 30 days of receipt of the plan.

.641 (Continued)

.642 SDSS may approve the CWD's proposed plan revision.

HANDBOOK ENDS HERE

HANDBOOK BEGINS HERE

.65 If SDSS does not take action in accordance with Section 42-720.64 SDSS will continue funding approved program activities and will work with the CWD to develop a satisfactory plan of action for providing services in the original county plan or for submitting a new plan revision.

HANDBOOK ENDS HERE

.66 In the event funds become available, the CWD must resume services in accordance with the priority order for services specified in Sections 42-720.632 and .633.

.661 The CWD plan revision to achieve cost reduction shall describe

the methodology to be used to resume services to individuals excluded or targeted for exclusion under the plan.

.7 (Continued)

Authority Cited: Sections 10553 and 10554 Welfare and Institutions Code.

Reference: Sections 11322.2(b) and 11322.4, Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990 and 45 CFR 250.1 and 250.31(a).

Amend Section 42-730.1 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES

42-730

.1 The CWD may provide job, training, and education services directly to program participants, or by referral to services provided by the PIC. The CWD also ~~may~~ shall enter into contracts or interagency agreements as specified in Section 42-740, 42-741, and 42-742 with private or public agencies for the provision of these services when not provided directly by the CWD. The CWD shall be responsible for receiving and resolving complaints regarding displacement as described in .13 and .329, below.

.11 Each CWD shall, in providing job, training, and education services to participants, provide services to each participant which will best meet his/her needs. Counties shall work with local training and education providers, including service delivery areas, community college districts and local school districts, to identify existing resources and, if necessary, to create training and education opportunities that meet the needs of teenage parents who have obtained a high school diploma or its equivalent and who are required to participate, or who participate voluntarily.

.12 (Continued)

.13 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11330.7, Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-730.2 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES
(Continued)

42-730

.2 Job Services shall include: (Continued)

.21 (Continued)

.22 (Continued)

.23 (Continued)

.24 (Continued)

.25 (Continued)

.26 (Continued)

.27 Subject to the GAIN Program participant flow process as described in Sections 42-771 through 774, participation in job search activity shall be limited as follows:

.271 Counties may require applicants for AFDC to begin job search activity prior to the determination of eligibility for aid during an initial eight-consecutive-week period beginning with the date of application for aid.

(a) Determination of eligibility for aid shall be the date of authorization of payment as defined in Section 44-317.121.

.272 Counties may require recipients of AFDC to participate in job search activity for up to 40 days in any period of 12 consecutive months.

- (a) Any number of hours of job search performed in a calendar day shall count as one day toward the 40-day limit.

.273 Counties shall track the 40-day job search time limitation specified in Section 42-730.272 as follows:

- (a) The first 12-consecutive-month period shall begin when the individual first participates in a GAIN job search activity following the close of the initial eight-consecutive-week period.
- (b) The second and subsequent 12-consecutive-month periods shall begin immediately following the close of the previous 12-consecutive-month period.
- (c) The 12-consecutive-month period shall be continuous unless the individual goes off aid and returns to the GAIN Program as an applicant. Periods of nonparticipation, including exemption or deferral, shall not interrupt the 12-consecutive-month period.

HANDBOOK BEGINS HERE

- (d) Example 1: A person applies for AFDC on July 2, is determined to be a mandatory GAIN participant, and is referred to GAIN appraisal. Based on appraisal results, she attends Job Club July 9 - July 27. Eligibility for aid is established on August 1, prior to attendance in Job Club. The 12-consecutive-month period for this case begins upon the first instance of job search activity occurring after August 27, the close of the initial eight-consecutive-week period.

Example 2: Same facts as example 1, except she begins Job Club on August 3, two days after eligibility for aid was established (August 1). The 12-consecutive-month period begins on August 3, because it is when the individual first participates in job search following the close of the initial eight week period.

HANDBOOK ENDS HERE

.274 Counties shall not require any individual to participate in job search activity in excess of the limits specified in Sections 42-730.271 and .272 except as part of a CWD approved education, training or employment activity as follows:

- (a) During a PREP assignment; or
- (b) During the 90-day job search services period following successful completion of an assigned activity; or
- (c) During a CWD approved education or training activity where job search services are part of the provider's education or training curriculum.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11322.6(f), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990 and 45 CFR 250.60(c) and (d).

Amend Section 42-730.3 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES
(Continued)

42-730

.3 (Continued)

.31 (Continued)

.32 (Continued)

.323 (Continued)

.324 (Continued)

.325 (Continued)

.326 At any time during a participant's PREP assignment, he/she may request job services as specified in Section .2 above.

(a) (Continued)

(b) (Continued)

(c) Job search services during the PREP assignment shall not be subject to the 40-day time limitation specified in Section 42-730.272.

.327 (Continued)

.328 (Continued)

.329 (Continued)

.33 (Continued)

.34 (Continued)

.35 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 250.60(d) and Welfare and Institutions Code Section 11322.6(f)(2), AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-730.418 to read:

42-730 GAIN JOB, TRAINING AND EDUCATION SERVICES

42-730

.4 Grant Diversion

.41 (Continued)

.417 (Continued)

.418 An assignment funded by grant diversion shall not be created as the result of, nor shall result in, the filling of an established unfilled position with a GAIN participant.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11322.8(h)(6), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990 and 45 CFR 250.62(b)(2).

Amend Section 42-730.5 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES
(Continued)

42-730

.5 Education services shall include: (Continued)

.51 Adult Basic Education

.511 (Continued)

.52 (Continued)

.53 (Continued)

.54 Utilization of an educational program entered into as a result of the employment plan shall not exceed two academic years.

.55 Participants in educational services specified in Section 42-730.51 and .53 shall be provided a minimum of 10 hours per week of instruction, if available, during each week that participation is required.

.551 The CWD shall notify SDSS whenever this minimum level of instruction cannot be provided. This notification shall identify the school or community college district, and the reasons why that school or college is unable to provide the minimum number of hours of instruction.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11323, Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-740.1 to read:

42-740 CONTRACTS/AGREEMENTS FOR GAIN JOB, TRAINING AND 42-740
EDUCATION SERVICES

.1 Contracts/agreements between the CWD and providers of job, training or education services, including employers providing PREP, shall include specific criteria as follows:

.11 (Continued)

.12 (Continued)

.121 (Continued)

.122 (Continued)

.13 (Continued)

.14 Contracts shall specify the criteria for successful participant completion of the job, training, or education program, which shall be based on the contractor's normal standard of attendance or performance. These criteria shall include a written provider-developed standard, containing quantitative and qualitative measures, which must be applied at least once per year to determine if a participant is making satisfactory progress. Participants shall be informed of the progress criteria at the beginning of their activity by either the CWD or the contractor.

(a) Quantitative measures define reasonable time limits for completing an activity.

(b) Qualitative measures provide an assessment of the degree of success a participant is experiencing in his/her GAIN activity, and can include competency or proficiency attainment, or grade point average.

.141 The requirement specified in Section 42-740.14 shall be considered met if the contractor adheres to any applicable statewide progress standard established by SDSS.

142 (Continued)

.15 (Continued)

- .16 Contracts for on-the-job training, excluding those funded by grant diversion, shall specify that payments to an employer for on-the-job training shall not exceed an average of 50 percent of the wages paid by the employer to the participant during the period of such training.
- .17 Contracts for on-the-job training/ ~~excluding those funded by grant diversion~~/ shall specify that a participant in on-the-job training shall be compensated by the employer at the same rates, including benefits and periodic increases, as similarly situated employees or trainees but in no event less than the higher of federal or state minimum wage.
- .18 Contracts involving reimbursement for GAIN services shall contain a written certification by the provider that the services being provided would not otherwise be available to GAIN registrants free of charge in the absence of available GAIN funding.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11322.8(a) and 11328.6(a), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; 45 CFR 250.1, 45 CFR 250.61(b) and (c), and 45 CFR 250.72(c) and (d).

Amend Section 42-740.2 to read:

42-740 CONTRACTS/AGREEMENTS FOR GAIN JOB, TRAINING
AND EDUCATION SERVICES

42-740

.2 (Continued)

.21 (Continued)

.22 (Continued)

.23 The CWD shall be permitted to enter into contracts for educational services without having to adhere to the contracting requirements of Section 42-740.21, when the CWD is unable to obtain educational services due to the absence of an available adult education program or the small number of GAIN referrals. Utilization of this exemption shall require prior review and approval by SDSS.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11328.8(c), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Sections 42-750.1; amend and relocate existing .2 to .3; and adopt new .2 to read:

42-750 SUPPORTIVE SERVICES

42-750

.1 Supportive services shall be provided to GAIN registrants to enable them to participate in GAIN activities or to accept employment opportunities. Child care supportive services shall also be provided for children of Indian Tribal JOBS Program participants. As specified in Section 42-782.1(g) or 42-783.1(k), participation shall not be required if the needed services are not available, not arranged, or are insufficient to meet the participant's needs.

.11 At a minimum, these services shall include child care referrals and payments, transportation costs, ancillary expenses, and personal counseling except as otherwise specified for individuals in approved self-initiated programs as specified in Section 42-750.54. In the case of Indian Tribal JOBS Program participants, counties shall be responsible only for the provision of child care services.

.2 Child care services shall be available to every GAIN participant with a child who meets ~~one~~ the condition(s) of one category in each of Sections 42-750.21 and .22 below.

.21 The child:

- (a) Is in the AFDC assistance unit; or
- (b) Receives benefits under federal foster care; or
- (c) Receives benefits under Supplemental Security Income/State Supplementary Payment (SSI/SSP) program.

.22 The child is:

- (a) Under the age of 13; or
- (b) Physically or mentally incapable of caring for himself/herself based on a written statement of a physician or a licensed or certified psychologist or receipt of SSI/SSP and meets the age requirements under the AFDC program, as specified in Section 42-100; or

- (c) Under court supervision as specified in Welfare and Institutions Code Section 601 or 602 and meets the age requirement under the AFDC program, as specified in Section 42-100.

.3 (Continued)

.31 (Continued)

.311 (Continued)

.312 (Continued)

.313 If the CWD or a contractor pays for child care services which are exempt from licensure with the exception of extended day care on a school site operated by school employees, all of the following information about the care provider shall be on file with the CWD, or agency contracting with the CWD, and shall be made available to the participant:

(a) through (f) (Continued)

(g) In addition, for children of Indian Tribal JOBS Program participants, that a child care provider located on the Indian reservation is in compliance with applicable standards of Tribal law if such requirements exist.

.32 (Continued)

.321 (Continued)

.322 (Continued)

.323 Include in the participant's case file the following information in relation to child care services provided in the GAIN program:

- (a) The name, birthdate, and sex of each child for whom care is to be provided.
- (b) The types of child care to be provided, including care in the child's home, family day care, or center-based care.
- (c) The scheduled hours of care per week.
- (d) The beginning and anticipated ending dates of care, based on the participant's training program.
- (e) The name and address of the child care provider.
- (f) The rate of pay for child care services.
- (g) Provisions for payment during temporary absences of the child or provider. (See .2335 below.)

.324 The participant contract shall specify that the participant shall notify the CWD of any changes in child care arrangements including changes in providers (see Section 42-750.82). These changes shall be included in the participant's case file.

.33 (Continued)

.331 GAIN funds may be used to pay for child care services arranged by the participant, providing those costs do not exceed regional market rates as specified in .333 below, and they meet the standards set forth in .31 above.

.332 (Continued)

- .333 Participants shall be allowed to choose licensed or exempt child care, and the cost shall be reimbursed up to the regional market rate in accordance with regional market rates provided to counties by SDSS.

HANDBOOK BEGINS HERE

- (a) Regional market rates will be determined by SDSS in accordance with resource and referral programs provided for under Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code, and the Alternative Payment program provided for under Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of the Education Code.
- (b) The regional market rate means care costing no more than 1.5 standard deviations above the mean market cost of care for that region.
- (1) The mean market cost for care in a region will be determined based on a statistically valid survey of the rates established by child care providers for private clients.
- (A) The regional market rate will be updated no less than every two years with recent survey data.

HANDBOOK ENDS HERE

- (c) In cases where the child care provided is in a region where there are not more than two child care providers of the type needed by the participant, counties shall pay the actual cost for child care.

.334 (Continued)

- .335 GAIN funding will be available to pay for child care services when the child is temporarily absent from care, if it is agreed to pursuant to .323(g) above. Payment may be made for temporary absences only for the following verified reasons: (Continued)

.34 Counties shall issue payments for child care costs within the following time frames:

.341 For advances, within seven calendar days after CWD approval for an advance payment has been made.

.342 For reimbursements, within 20 calendar days after receipt of all documents necessary to verify those expenses.

.35 No reimbursements shall be made for child care services when care is provided by the child's parents, legal guardians, or members of the assistance unit, including, but not limited to, essential persons.

.36 When there is a change in provider without prior notification to the CWD as specified in Section 42-750.82, payments for child care services shall be subject to the following conditions and limitations:

.361 If the new provider meets regulatory criteria under Section 42-750.31 and the change was due to an emergency or exceptional situation as defined in 42-750.821, the CWD shall approve the new provider effective the date services began, even if a payment to the prior authorized provider will also be made for the transitional time period.

.362 If the new provider meets regulatory criteria under Section 42-750.31 but the change is not due to an emergency or exceptional situation, the CWD shall approve the new provider effective with the end of the prior authorized provider's service billing cycle/ in order to avoid duplicate payments during the transitional time period.

(a) If the prior authorized provider's contractual terms require full payment, the CWD shall approve the new provider, effective with the end of the prior authorized provider's contractual period.

1362 The provisions of section 42-750.1362 shall only apply when the prior authorized provider's contractual terms require full payment/

.37 Child care may be paid for a period not to exceed one month, where child care arrangements would otherwise be lost and an approved GAIN activity or job is scheduled to begin within that period.

.38 Participants in an OJT assignment who lose eligibility for AFDC due to earned income, hours worked, or loss of income disregards, shall be eligible to receive supportive services in accordance with Section 42-750 for the duration of participation in the assignment.

.381 The CWD shall reduce the available number of months of Transitional Child Care, as defined in Section 47-120, by the number of months of child care provided during the OJT assignment pursuant to Section 42-750.38.

HANDBOOK BEGINS HERE

If the participant would have been eligible for Transitional Child Care (TCC) as defined in Section 47-120 at the time that he/she lost eligibility for AFDC as specified in Section 42-750.38, he/she is eligible to receive TCC for the number of months left in the 12-month TCC eligibility period following the end of the OJT assignment.

For example, an individual who goes into OJT loses eligibility for AFDC in January. The OJT continues until April during which time the individual receives child care as a participant. If the individual would have been eligible for TCC in February, the individual is potentially eligible for the remaining nine months of TCC (from May to January) if he/she enters unsubsidized employment at the end of the OJT assignment.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11320.6(e)(5), 11322.2(a), 11323.2, 11323.4(c) and 11323.6(d)(2), (e)(2) and (f), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; and 45 CFR Sections 250.61(e) and (f), 250.95(b), 255.1(e)(1) and (4), 255.2(a), (d) and (h) and 255.4(a)(2)(iii), (c)(2), (f)(2) and (i)(1).

Renumber existing Sections 42-750.3, .4 and .5 and amend to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

.4 Reasonable transportation costs shall be paid for every participant to and from his or her GAIN assignment, including transportation to and from the child care provider, and transportation for children to and from child care.

.41 Regional market rates for transportation shall be determined as follows:

.411 The least costly form of public transportation including CWD provided transportation that would not preclude participation in GAIN as specified in Section 42-783.1(b).

.412 If there is no public transportation available which meets the requirements of .411 above, participants may use their own vehicles, and shall be reimbursed at a rate used to reimburse CWD employees for the use of privately-owned vehicles.

.413 Parking for GAIN participants shall be reimbursed at actual cost. Participants must submit receipts for this purpose, except in cases where parking meters are used.

.414 Reimbursement to participants who choose to use their own vehicles when public transportation is available shall not exceed the rate specified in .411 above.

.415 The CWD shall submit as part of their county plan, an alternative for areas in which there is no public transportation available, and where a per-mile reimbursement rate would result in excessive costs.

.5 Ancillary expenses shall be paid when necessary up to a maximum of \$450 per participant. These shall include books, tools, clothing, fees, and other necessary costs of a work or training assignment.

.51 The maximum in .5 above may only be exceeded on an exception basis where the CWD determines that expenses in excess of the maximum are reasonable and necessary for participation.

- .52 A person who has personal or family problems that are jeopardizing the successful outcome of the employment plan entered into pursuant to Section 42-773 shall, to the extent available, receive necessary counseling or therapy to help him or her and his or her family adjust to his or her job training assignment.
- .53 The CWD shall specify the method(s) that it will use to provide these services in its initial county plan and annual updates.
- .54 Participants who are in approved self-initiated programs shall not be reimbursed for ancillary expenses.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11325.2(a)(5)(C)(i), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990 and 45 CFR 250.48(a)(3).

Amend Section 42-750.6 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

- .6 Payments for supportive services shall be advanced to the participant whenever necessary and desired by the participant, so that the participant need not use his or her funds to pay for these services.

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The CWD should minimize the need to make advance payments to participants by paying for services directly.

HANDBOOK ENDS HERE

- .61 An unused portion of an advance payment for supportive services is that amount of an advanced payment received which is not subsequently supported by proof of costs.
- .62 The unused portion of an advance payment shall be collected from either: 1) supportive services reimbursements for the month following the month for which the advance payment was made or 2) subsequent supportive services advances for the second month following the month for which the advance payment was made ~~the next advance payment or reimbursement of the supportive service following receipt of proof of costs.~~
- .621 If proof of costs is not provided by the participant or obtained by the CWD, the CWD shall treat the entire advance as unused.
- .622 When an individual is unable to provide the necessary information for the CWD to determine whether there is an unused portion of an advance payment for supportive services, the CWD shall assist the individual in securing the proof of costs.
- .623 When the individual and the CWD are unable to secure proof of costs, the CWD shall accept the individual's sworn statement under penalty of perjury as sufficient evidence of costs if no evidence to the contrary exists.
- .624 Proof of costs shall include, but is not limited to, the following: attendance reports, receipts and provider documentation.

- .6215 Any ~~adjustment~~ made to subsequent recovery of supportive services child care payments shall only be made from future the same type of supportive service for which the advance was provided. child care payments. Any recovery of transportation and/or ancillary expenses shall only be made from future transportation and/or ancillary expense payments.

HANDBOOK BEGINS HERE

- (a) For example: The unused portion of an advance for transportation expenses ~~must~~ may be adjusted from a subsequent ancillary expense transportation payment. ~~and not from a subsequent child care payment.~~

HANDBOOK ENDS HERE

- .6226 The CWD shall notify the participant of any adjustment made to a supportive services payment, as specified in Section 42-750.811(c).
- .6237 If upon receipt of the notice specified in Section 42-750.6226, the participant indicates that the collection will result in disruption of child care arrangements, preclude participation in the program or prevent employment, the county shall:
- (a) Not collect the unused portion of the advance; and
 - (b) Follow the overpayment ~~deferral~~ procedures and the deferred repayment procedures specified in Section 42-751.32.
- .6248 Except as specified in Section 42-750.6237, if the county is unable to collect in part or in full, the unused portion of an advance payment following receipt of proof of costs in the month as specified in Section 42-750.62, the county shall collect the remaining portion using the appropriate overpayment recovery procedures specified in Sections 42-751.3, .4 and .5.

1623 If the county does not collect the unused portion of an advance as specified in sections 42+750/623 and 1624, the county shall determine whether continued use of advances is appropriate and shall discuss with the participant alternate methods of payment.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11323.4(b), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990 and 45 CFR 255.4(j).

Adopt Section 42-750.8 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

.8 Supportive Services Notice Requirements

.81 Participants shall be notified of specific arrangements for authorized supportive services through an appropriate Notice of Action (NOA) which shall be issued pursuant to the procedures specified in MPP Division 22.

.811 NOAs shall be issued to GAIN participants for the following types of supportive services actions and changes:

- (a) Approval of supportive services and the level and method of payment;
 - (1) The CWD shall inform participants who receive an advance payment that the unused portion of the advance will be collected as specified in Section 42-750.6.
 - (2) The CWD shall inform participants who receive advance payments that receipt of subsequent advance payments is contingent upon CWD receipt of proof of costs incurred no later than the 10th day of the month following the month for which the advance payment was made.
- (b) Denial of requests by GAIN participants for GAIN supportive services arrangements or payments;
- (c) Changes to existing supportive services payments and arrangements;
- (d) Collection of supportive services overpayments from GAIN participants pursuant to Section 42-751;
- (e) Termination of supportive services arrangements or payments.

.812 NOAs are not required for the following types of supportive services actions:

- (a) Approval of supportive services for one-time, short-term activities. Short-term activities include orientation/appraisal and school field trips.
- (b) Approval of payments for child care for temporary, substitute providers. This includes short-term care for sick children.
- (c) Approval of payments which are equal to the amount claimed by the GAIN participant or the service provider.

.82 The CWD shall inform participants of the requirement to provide prior notification to the CWD of changes in supportive services arrangements at least ten calendar days before an anticipated change, except in emergency or exceptional situations.

.821 Emergency or exceptional situations shall include, but are not limited to suspected child abuse, provider's arrest, and damage to the facility.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 255.2(h)(1).

Adopt Section 42-750.9 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

.9 Treatment of Financial Aid

.91 The CWD shall consider the availability of financial aid received by the participant in the form of educational grants, scholarships and awards when determining the need for GAIN supportive services payments.

.92 The CWD shall not deny or reduce GAIN supportive services if the participant indicates that the financial aid is not available to meet supportive services needs allowable under Section 42-750.

.93 The CWD shall document all determinations regarding consideration of a participant's educational grants, scholarships and awards in the case file.

.94 The CWD shall attempt to enter into written agreements with the financial aid office at appropriate educational institutions providing GAIN services in order to avoid duplication of supportive services payments to GAIN participants.

.941 Any agreement between the CWD and the institution shall include, but not be limited to, the following:

- (a) A description of the supportive services to be provided by each party.
- (b) A provision for amendment and modification as necessary.
- (c) A provision that supportive services needs will be evaluated on a case-by-case basis.

HANDBOOK BEGINS HERE

.942 For example: The local Community College has an agreement with the CWD to provide GAIN educational services. The financial aid agreement specifies that the CWD will provide child care necessary to participate in GAIN and that the community college will develop GAIN participant student budgets to meet the costs of transportation and books.

A GAIN participant assigned to attend the Community College indicates that she does not need GAIN to pay for transportation or ancillary expenses because her financial aid covers these expenses. After three months in GAIN, her car needs expensive repairs that deplete her financial aid, and she requests a bus pass from GAIN to enable her to get to school. The CWD provides the bus pass.

HANDBOOK ENDS HERE

- .95- Educational loans or work study program awards shall be excluded from consideration when determining supportive services needs.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11323.4(d), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Adopt Section 42-751.1 through .6 to read:

42-751 UNDERPAYMENTS AND OVERPAYMENTS OF SUPPORTIVE SERVICES

42-751

.1 Definitions

.11 Underpayments occur when it has been determined by the county that supportive service payments made to the participant, or the value of services provided on behalf of the participant, are less than those to which he/she is entitled as specified in Section 42-750.

.111 Action to correct underpayments shall be taken within 20 calendar days from the date the CWD determines that an underpayment exists.

.12 Overpayments occur when it has been determined by the CWD that supportive services payments made to the participant, or the value of services provided on behalf of the participant, exceed those to which he/she is entitled as specified in Section 42-750.

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An overpayment may be all or a portion of a supportive services payment.

HANDBOOK ENDS HERE

.121 The amount subject to collection procedures specified in Section 42-751.2, includes:

(a) Payments provided for periods during which the participant is absent from GAIN activities when:

(1) The absence is in excess of ~~ten percent of the required monthly hours as specified in Section 42-782.2~~ of the provider's allowable absence standards for absence, or if there is no provider standard, the absence is in excess of ten percent of the monthly hours required for any component as specified in Section 42-782.2.; and

(2) The absence is without good cause according to those reasons specified in Section 42-782.1.

(b) Uncollected unused advance payments as defined in Sections 42-750.62~~7~~7 and .62~~4~~8.

.13 Overpayments are not considered to have occurred:

.131 During absences of the child(ren) from child care when the child care arrangements would be lost and the absence is a result of verified reasons as specified in Sections 42-750.335(a) through (e) and 42-750.37.

.132 During absences of the participant from GAIN activities that are for reasons that meet the good cause criteria as specified in Section 42-782.1.

.133 During lapses in AFDC eligibility for up to one month due to late CA7 reporting as specified in Section 40-181.221.

.134 During lapses in AFDC eligibility due to AFDC administrative error or for less than a full month.

.2 General Criteria

.21 The CWD shall take all reasonable steps necessary to promptly correct and collect any overpayment that is known to the county.

.211 The CWD shall refer cases of suspected fraud to the county Special Investigative Unit as specified in MPP Section 20-005.

.212 The CWD shall attempt recovery efforts in all cases of current AFDC recipients, including current and former GAIN participants.

.213 The CWD shall attempt recovery efforts in all cases of former AFDC recipients except as specified in Section 42-751.5.

.22 The county shall recover supportive services overpayments from the overpaid individual or may collect from:

.221 Any adult member of the assistance unit that was overpaid; or

.222 Any adult who is a former member of an assistance unit that was overpaid; or

.223 Any family which contains an individual who was a member of a previously overpaid assistance unit.

.23 When the county has determined that an overpayment exists, the county shall calculate the amount of the overpayment and determine the appropriate method of recovery.

.24 Counties shall be allowed to use recovery methods as specified in Section 42-751.4 concurrently.

.241 The methods that result in the maximum recovery without interfering with program participation shall be used.

.3 Initial Recovery and Establishing Repayment Agreements

.31 ~~Except as specified in Section 42-750.0221 regarding individuals who have had unused portions of an advance payment deferred from collection,~~ The county shall initiate recovery within 30 calendar days of the date the overpayment is first discovered by notifying the individual in writing that he/she has an overpayment and that he/she must contact the county within ten calendar days of the date the notice is mailed to arrange repayment.

.311 If the participant does not respond to the overpayment notice within ten calendar days of the date the initial notice is mailed or the participant does respond to the initial notice, but fails or refuses to enter into a repayment agreement, the county shall use the payment adjustment method of recovery as specified in Section 42-751.44 unless:

(a) The county determines that the deferred repayment provisions of Section 42-751.32 apply.

.312 The overpayment notice shall include:

(a) The name of the overpaid person;

(b) The amount owed;

(c) The reason for the claim;

(d) The period of time that the claim covers;

- (e) A statement regarding the right of the participant to a State hearing if the participant disagrees with any aspect of the claim;
- (f) The reasons repayment may be deferred as specified in Section 42-751.32;
- (g) A statement that recovery will occur as specified in Section 42-751.311 if the individual fails to respond within ten calendar days.

.313 The county shall attempt to obtain a signed repayment agreement from the overpaid individual subject to the recovery methods specified in Section 42-751.4 and provide a copy of the agreement to the overpaid individual.

.32 Deferred Repayment

.321 The following provisions for deferred overpayment collection shall be applicable only to current GAIN participants.

- (a) The CWD shall defer collection and recovery of any overpayment if the collection would result in disruption of child care arrangements, preclude participation in the program, or prevent employment.
 - (1) The CWD shall notify the participant of the deferral criteria and when a decision to defer overpayment collection is made.
 - (2) The CWD shall reevaluate the need for deferring repayment whenever the participant's participation status changes (from one component to the next, deregistration, etc.).
 - (3) The CWD shall document the expected ending date of the deferred repayment status.

.4 Overpayment Recovery Methods

.41 Balancing

.411 When an individual has both an overpayment and an underpayment, the county may offset one against the other, subject to the provisions specified in Section 42-751.32.

.42 Voluntary Cash Recovery

.421 The county shall accept any voluntary cash payment from an individual to pay any portion of an existing overpayment.

.43 Grant Adjustment

.431 The individual shall be permitted to have supportive services overpayments adjusted from his/her AFDC grant when the individual is receiving AFDC, provided:

(a) The individual chooses this method of recovery; and

(b) The individual agrees with the amount of the AFDC grant adjustment.

.432 Individuals shall be allowed to revoke a repayment agreement incorporating grant adjustment at any time and enter into a new repayment agreement with the county.

.44 Supportive Services Payment Adjustment

.441 The following payment adjustment provisions shall be applicable only to current GAIN participants.

.442 Any recovery of child care overpayments shall only be collected from future child care payments.

.443 Any recovery of transportation and/or ancillary expense overpayments shall only be collected from future transportation and/or ancillary expense payments/ ~~respectively~~.

.444 The maximum recovery from the current payment(s) shall be as follows:

(a) Ten percent of the total payment, for recipient-caused overpayments, unless the individual volunteers to pay a higher percentage.

- (b) Five percent of the total payment for overpayments resulting from administrative error, unless the individual volunteers to pay a higher percentage.

.445 When recovery is made in full from a subsequent supportive services payment the participant shall be informed, in writing, according to the provisions in Section 42-750.811.

.446 When the current payment adjustment is not enough to recover the entire overpayment or no claim is received in a given month, then the remaining amount of the overpayment shall be applied to succeeding month(s) and the adjustment process shall be repeated as specified in Sections 42-751.442, .443 and .444.

- (a) When any adjustment is made, the county shall notify the participant as specified in Section 42-750.811.

.447 When no subsequent payment(s) are available for an adjustment to be made, because the individual becomes exempt and does not volunteer to participate or loses eligibility for AFDC the county shall attempt to establish or obtain a new repayment agreement as specified in Section 42-751.313.

.448 The county shall notify the participant when a reduction is made to adjust current supportive services as specified in Sections 42-750.811 (c) and (d).

.5 Demand Recovery

.51 The county shall demand, in writing, repayment of any outstanding overpayment amount from:

.511 Any individual who becomes exempt and does not volunteer to participate or loses eligibility for AFDC, unless the individual continues to repay in accordance with a previous repayment agreement or enters into a new repayment agreement as specified in Section 42-751.447.

- (a) The provisions of Sections 42-751.51 and .511 do not apply to on-the-job training participants specified in Section 42-750.38.

- .512 Any individual who fails to make a cash payment as agreed in a repayment agreement specified in Section 42-751.313, unless the individual enters into a new repayment agreement.
- .52 Once the initial demand letter for repayment has been sent, the county shall continue recovery efforts of supportive services overpayments in all cases of fraud, in all cases of current recipients and in all cases of former recipients of AFDC where the overpayment amount would equal or exceed the cost of recovery.
- .53 When a participant: 1) loses eligibility for aid; 2) meets the eligibility criteria for the Transitional Child Care (TCC) Program specified in Section 47-120; and 3) there is an uncollected GAIN child care overpayment, the county shall recoup the amount using procedures specified in Section 47-190.
- .6 Overpayment Record Maintenance
- .61 The county shall maintain a record of the overpayment including all notices and repayment agreements, the repayment dates and amounts recovered.
- .62 Once collection of the overpayment is completed, the overpayment records shall be retained in accordance with requirements for records retention of public assistance cases, as specified in MPP Section 23-350.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.4(b) and 11328, Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; 45 CFR 205.10, 255.2(h)(1) and 255.4(j); and 54 FR 42234, October 13, 1989.

Adopt Section 42-760.8 to read:

42-760 GAIN REGISTRATION (Continued)

42-760

- .8 Any AFDC applicant or recipient who is a member of, and who lives within the designated service area of, any Indian Tribe operating a Job Opportunities and Basic Skills Training (JOBS) Program approved by the federal Department of Health and Human Services under the Family Support Act of 1988 (P.L. 100-485) shall, if required pursuant to a tribe's approved operating plan, participate in the tribal program in place of registration and participation in the GAIN Program. Any county in which there is an approved Indian Tribal JOBS Program shall do all of the following:
- .81 Maintain the confidentiality standards specified in MPP Division 19.
 - .82 Refer all AFDC applicants and recipients who are Tribal members to the Tribe's JOBS Program.
 - .83 Impose financial sanctions in accordance with Section 42-786.
 - .84 Provide child care referral and payments, including transitional child care in accordance with Sections 42-750.2 and .3 and Division 47.
 - .85 Enter into any agreements necessary to carry out the activities specified in this Section.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.4(e), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; 45 CFR 250.90, 45 CFR 250.94(a)(2), 45 CFR 250.95(b) and 45 CFR 250.97(f)(7).

Amend Sections 42-761.3 and .4 to read:

42-761 GAIN REGISTRANT APPRAISAL (Continued)

42-761

.3 (Continued)

.33 If it has not been determined prior to Appraisal, determine if the registrant should be deferred from participation based upon the criteria specified in Sections 42-761.4 or .5.

.34 (Continued)

.35 (Continued)

.36 (Continued)

.361 The CWD shall determine if the registrant lacks basic literacy or mathematics skills or English language skills by using the appropriate testing instruments provided by SDSS in conjunction with SDE.

(a) This determination shall also be made for registrants who, at the time of the initial appraisal, are enrolled in a program for which the sole purpose is to develop basic literacy or mathematics skills or English language skills, as specified in section 42-772.56.

.362 (Continued)

.363 Registrants who are determined to lack any of these basic educational skills and who appear to be unable to benefit from instruction to remedy these skill deficits, shall be evaluated, as specified in Section 42-772.512, prior to assignment to a component.

.37 Identify the registrant's need for supportive services. (See Section 42-750.)

.371 Subject to the provisions of Section 42-750.2, the CWD shall immediately refer a registrant with a child(ren) to the local child care resource and referral agency if needed or as requested by the registrant.

(b) through (k) (Continued)

- (1) A 16 or 17 year old custodial parent who is not currently in school and who does not possess a high school diploma, only when any of the following apply:

(1) Supportive services that are needed by the individual are not available.

(2) Intensive case management services as described in Section 42-772.76 are needed by the individual and are not available.

(3) The individual has a special need that directly affects his/her ability to attend school or be successful in earning a high school diploma or equivalent, and that need cannot be met.

(m) (Continued)

(1) (Continued)

(2) (Continued)

(3) (Continued)

- (n) A parent or other adult relative who lacks the necessary child care for a child who meets the criteria in Section 42-750.2 or for a child who meets the criteria of Section 42-750.22 but who does not meet the criteria of Section 42-750.21, and therefore is not eligible for child care paid by GAIN.

- (o) An individual who lacks transportation.

- (p) An individual who, at the time of the initial appraisal, is attending an education or training program that is not approvable as a GAIN activity or does not meet the requirements of Section 42-761.4(a) may be deferred in order to permit completion of the program semester, quarter or increment of not more than six months.

- (1) This deferral shall apply only when the conditions for the deferral in Section 42-761.4(a) cannot be met and the individual wishes to complete a current term of education or training before participating in GAIN.

.41 Deferral determinations for individuals meeting the criteria of Sections 42-761.4(e) and (m) shall be made prior to Appraisal.

.411 Data collection activities specified in Section 42-720.7 and deferral review activities specified in Section 42-761.43 are not required for individuals meeting the criteria of Sections 42-761.4(e) and (m).

.42 (Continued)

.43 (Continued)

.431 (Continued)

.44 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.2(a), 11323.4(d)(1), 11323.6(d)(1), 11325, 11325.2(c)(7) and 11330.3, Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; 45 CFR 250.1, 45 CFR 250.41(a)(1)(i) and (b), 250.48(a) and 255.2(a); and 54 FR 42184, October 13, 1989.

Amend Section 42-771.5 to read:

42-771 GAIN PARTICIPANT CONTRACTS (Continued)

42-771

.4 (Continued)

.5 The contract shall describe in detail the types of supportive services generally available to GAIN participants and shall state that needed supportive services shall be provided to the participant. (See Section 42-750.)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11325.2(c)(1)(B), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990 and 45 CFR 255.2(h).

Amend Section 42-772.11, .22, and .31 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS

42-772

.1 (Continued)

.11 Participation in job club shall be delayed for individuals who meet the conditions in .4 or .5 below, except as specified in ~~/47~~ .45, .52, and .53 below.

.2 (Continued)

.22 Participation in the chosen option shall be delayed for individuals who meet the conditions in .4 or .5 below, except as specified in ~~/47~~ .45, .52, and .53 below.

.3 (Continued)

.31 Referral to an assessment shall be delayed for individuals who meet the conditions in .4 or .5 below, except as specified in ~~/47~~ .45, .52, and .53 below.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 42-772.4 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS
(Continued)

42-772

- .4 For any participant who ~~at the time of the initial approval~~ is enrolled in, or attending in good standing, a self-initiated vocational training program or an educational program which will likely lead to unsubsidized employment in an occupation in demand, the basic contract shall provide for up to two calendar years of continued participation in the program under the conditions and limitations in this section. The program shall be consistent with the participant's preliminary employment goal. The CWD shall notify, in writing, the individual if the self-initiated program or extension to the program is disapproved and the reason(s) for that disapproval.

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Individuals whose self-initiated programs are not approved as a GAIN activity may qualify for a deferral under Section 42-761.4(a).

HANDBOOK ENDS HERE

- .41 In order to be approved, the individual's program shall be scheduled to be completed within the two-year period from the date the basic contract is signed.
- .411 If, at the end of the two-year period, the participant has not completed his/her program, the period for completion may be extended one time only, for up to six months, due to any of the following circumstances, when there is a reasonable expectation that the program can be completed within six months:
- (a) The individual's basic skills requirements required more class time than was estimated at the commencement of the program.
 - (b) The school or college did not offer required classes in a sequence that permitted completion of the self-initiated program within the prescribed time period.

- (c) The individual had a personal or family crisis that resulted in the inability of that individual to complete his or her self-initiated program without an additional period of attendance, not to exceed six months.

412 An individual whose self-initiated program, approved under the provisions of this section, is interrupted for good cause as defined in Section 42-782.1 which prevents participation in the education or training program, shall be permitted to resume participation in the same program as follows:

- (a) The individual shall have maintained good standing in the program while participating.
- (b) The CWD shall adjust the completion date of the program, to account for the time of absence, to allow the individual a cumulative total of two years to complete the program.
- (c) If the break in participation was for more than one year, the individual may resume the program if the CWD determines that the previously approved self-initiated education or training program meets all other criteria of Section 42-772.4 at the time it is resumed. The completion date shall be adjusted as provided in Section 42-772.412(b).

HANDBOOK BEGINS HERE

- (1) The following examples demonstrate the application of these provisions:

- (A) Client A's self-initiated program was approved and she signed her participant contract on January 1, year 1. Her scheduled completion date was December 31, year 2. In October, year 1, her daughter became very ill. Client A had to drop her classes to take care of her daughter. On January 1, year 2, Client A reenrolled in her program in

good standing. Her completion date was adjusted to April 1, year 3, to account for her three month absence. Client A was concerned that this would be midsemester. She was informed that she could apply for an extension, if necessary, at that time.

- (B) Client B's self-initiated program was approved and he signed his participant contract on August 1, year 1. At full-time, the school estimated his program would be completed no later than June 30, year 3. Client B's wife subsequently waived her deferral for GAIN in order to complete her GED. To help out at home, Client B reduced his classload to five units on January 1, year 2. He continued in school, requested and received a deferral from GAIN, and his wife was registered as the mandatory participant for the family. His wife became pregnant in July, year 2 and qualified for deferral/exemption. Client B then returned to mandatory GAIN participant status and enrolled for full-time coursework in September, year 2. His GAIN case manager did not adjust the completion date for his SIP because the break in GAIN participation was not for a reason that prevented him from participating in his education program. He must complete his program by June 30, year 3, the original completion date.

(C) Client C signed her participant contract for her approved self-initiated program October 10, year 1 to be a laboratory technician. In June, year 2, Client C had an accident that prevented her from participating in her program until September, year 3. At that time, her GAIN worker reviewed the program to see if it still met the SIP approval criteria. The recent closure of a major weapons industry plant had forced many experienced laboratory technicians into the labor market. The worker informed Client C that there were no longer jobs in demand in her goal occupation; in fact, the largest employer for these occupations had gone out of business. Client C, unable to prove she could get employed or that there was a demand for her occupational goal, completed her semester of school under a deferral. Subsequently, she was assigned to participate in Job Club. If she had been able to produce proof of her employability at the completion of the program, her adjusted completion date would have been January, year 4, to allow for her time of absence.

HANDBOOK ENDS HERE

- .42 Vocational and educational programs which will likely lead to unsubsidized employment in an occupation in demand, shall be those which will provide the participant with the training or education required to obtain employment in the goal occupation identified under the provisions of Section 42-761.38.
- .421 The goal occupation shall be considered in demand if it is an occupational field that has been identified as in demand in the county's labor market needs assessment.

.422 If a participant and the CWD do not agree that the participant's goal occupation is likely to lead to unsubsidized employment, or the self-initiated program is denied because the occupation is not in demand, the participant shall be permitted to continue pursuing the goal if she or he can provide sufficient documentation to demonstrate that the local labor market provides reasonable opportunities to work in the goal occupation. This documentation may include, but is not limited to:

- (a) A signed statement that an employer will give the person a job in that occupation upon program completion.
- (b) A list of three employers who have frequent openings in the occupation pursued by the participant, at a skill level that can be achieved by the participant through skills training components offered by the program.
- (c) A statement from a school district, community college district, service delivery area, or an Employment Development Department office identifying the occupation as a demand occupation in the local labor market.

.43 The individual must need the self-initiated training or education program in order to become employable in unsubsidized employment.

.431 An individual who meets either of the following criteria shall be deemed employable and not eligible for SIP approval:

- (a) Possesses a baccalaureate degree.
- (b) Has the education or job skills necessary to obtain unsubsidized employment in an occupation in demand that will provide the individual with an income equal to two times the federal poverty level for the appropriate family size.

.432 A county shall not deem an individual employable under the provisions of Section 42-772.431(b) if the person is able to demonstrate that, due to compelling personal circumstances, employment in the previous occupation is not realistic. Such circumstances include, but are not limited to:

(a) A work-related disability.

(b) Inability to obtain required union membership.

(c) Hours of employment that cause a severe hardship on the individual's family.

.44 In order to continue in the training or education program, the individual shall be attending full-time according to the standards of the provider.

.441 If the individual is attending less than full-time at the time of the initial appraisal but she or he agrees to full-time attendance as soon as possible, the individual shall be considered to be attending on a full-time basis for the interim. The interim period is limited to a semester, quarter or next available opportunity not to exceed six months.

.442 The individual shall be permitted to participate on less than a full-time basis, but in no case less than half-time if full time attendance is not feasible due to good cause as defined in Section 42-782.1, or if the individual is subject to the 20 hour weekly participation limit specified in Section 42-772.6.

.45 An individual may choose to participate concurrently according to Sections 42-772.11, .22 or .31 above, whichever is appropriate.

.46 The basic contract shall provide that if concurrent participation has not occurred as specified in Section 42-772.45, the participant shall participate according to Sections 42-772.1, .2, or .3, whichever is applicable, when the participant completes the program or reaches the two-year limit and exhausts the available extension as specified in Section 42-772.41, whichever occurs first, or when any of the following occur:

.461 The participant stops participating in the educational or training program.

- .462 The participant fails or refuses to regularly attend the educational or training program.
- .463 The participant does not maintain satisfactory progress in the educational or training program.
- .464 The participant fails or refuses without good cause to increase participation in the self-initiated program to full-time.
- .465 The participant fails to participate on at least a half-time basis.
- .47 The participant shall provide documentation from the training or educational provider to the county at least quarterly or at midpoint if the program is for less than three months to verify satisfactory participation, attendance, and progress in the program.
- .471 The county shall verify the documentation whenever authenticity is in doubt.
- .472 The county shall rely on the training or educational provider's normal standard of attendance or performance to determine if the participant meets the criteria of satisfactory participation, attendance, and progress.
- .473 If the participant refuses to furnish the required documentation, the CWD shall consider that he/she is not meeting the criteria. See MPP Section 40-157 if the participant is unable to furnish the required documentation.
- .48 If the CWD determines that the participant had good cause for failing to meet the participation, attendance, or progress standards, based on the criteria specified in Section 42-782.1, and the school allows the participant to continue in the program, the participant is deemed to be making satisfactory progress and participation according to Section 42-772.46 shall not be required.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 250.48 and Sections 11325.2(c)(5) and 11326.2(b) and (c)(5)(D) and (E), Welfare and Institutions Code AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-772.5 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS

42-772

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 Except as specified in Section 42-772.7, for any participant who lacks basic literacy or mathematics skills, a high school diploma or its equivalent, or English language skills, the basic contract shall provide that the individual participate in either basic skills instruction, instruction in order to obtain a general educational development (GED) certificate, or instruction in English-as-a-second-language (ESL). For purposes of this section, basic education is defined to include basic skills instruction, GED and ESL.

.51 (Continued)

.511 Participants shall be required to maintain satisfactory progress, according to the SDSS or provider criteria as specified in Section 42-740.14, in their basic education activities. The CWD shall conduct or arrange for an evaluation when a participant is complying with other program requirements as specified in Section 42-781.1, and either of the following occurs:

(a) The participant is determined to not be making satisfactory progress in his/her basic education activity, or

(b) The participant is determined by the education provider to be unable to benefit from this activity due to a suspected or known learning or medical problem.

.512 The purpose of the evaluation required in Section 42-772.511 above shall be to determine whether the participant has the ability to successfully complete his/her assigned activity.

(a) The participant shall be involved in the decisions made during the evaluation and shall have appeal rights consistent with those provided pursuant to Section 42-774.122.

(b) This evaluation shall include, but is not limited to, the following activities:

(1) Testing to obtain additional information regarding the participant's learning abilities, if determined appropriate by the CWD.

(2) Identification of barriers to progress and efforts by the CWD to remove these barriers.

(3) Determination of what activity is most appropriate for the participant, including:

(A) Reassignment to the participant's previous activity.

(B) Referral or re-referral to existing educational programs that meet special needs of the participant.

(C) Referral to job club, as provided in Section 42-730.21, if the CWD determines that the participant has the skills needed to obtain unsubsidized employment in the local labor market.

(D) Referral to assessment, as specified in Section 42-773.2, or to a rehabilitation assessment, followed by the appropriate post-assessment activity.

HANDBOOK BEGINS HERE

The evaluation is intended to provide a method for determining the appropriate services needed by an individual for long-term success in the labor market. Individuals who are determined to need long periods of classroom instruction in order to achieve basic skills should not be referred to an evaluation if they are making steady, satisfactory progress in attaining the basic skill goal.

HANDBOOK ENDS HERE

- .52 (Continued)
- .53 (Continued)
- .54 (Continued)
- .55 (Continued)
- .56 Individuals who, at the time of the initial appraisal, are attending a program for the sole purpose of obtaining basic educational skills described in this section, shall be allowed to continue in that program under the following conditions:
 - .561 Literacy or educational deficits are identified using appropriate testing instruments specified in Section 42-761.361 or other appraisal results, which can be addressed through their existing educational activity.
 - .562 The individual provides documentation of attendance and progress as specified in Section 42-772.47 if there is no contract between the educational provider and the CWD.
 - .563 The individual meets the satisfactory progress provisions specified in Sections 42-772.511 and .512, and proceeds to the next appropriate GAIN activity upon completion of the basic education activity.
- .57 Individuals needing basic educational skills as described in this section shall be determined to have obtained these skills based upon exit criteria provided by SDSS in conjunction with SDE. These criteria shall be consistent with appraisal criteria used to determine basic educational skills needs as specified in Section 42-761.361.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11325.2(c)(6) and (7), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990, and 45 CFR 250.1 and 250.48(b).

Amend Sections 42-772.6 and .7 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS

42-772

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 Except as provided in Sections 42-772.61 and 42-772.71, for any parent or other relative who is personally providing care to a child under age 6, participation shall not be required for more than 20 hours per week.

.61 (Continued)

.7 For any custodial parent under age 20 who does not possess a high school diploma or its equivalent and who is not exempt, or whose sole reason for exemption would have been having a child under age three, or who volunteers, the participant contract shall provide that the individual participate in an educational activity leading to a high school diploma or equivalent, except as provided for self-initiated participants in Section 42-772.722.

.71 These participants shall participate full-time as defined by the educational provider.

.72 GAIN participation for these participants is limited to an education activity leading to a high school diploma or equivalent, except as follows:

.721 For a custodial parent described in Section 42-772.7 who is 18 or 19 years of age and who fails to make satisfactory progress in the education activity to which he/she is assigned, the provisions of Section 42-772.511 and .512 shall apply. If participation in any activity other than an educational activity leading to a high school diploma or equivalent is required as a result of the progress evaluation, such participation shall be subject to the 20 hour weekly participation limit of Section 42-772.6.

.722 For a custodial parent described in Section 42-772.7 who is 18 or 19 years of age and who is enrolled in a self-initiated vocational training or educational program that meets the SIP approval criteria in Section 42-772.4, the participant contract may specify participation in the approved self-initiated program in lieu of the educational activity. Such participation shall be subject to the 20-hour weekly participation limit of Section 42-772.6.

.73 For purposes of Sections 42-772.74 through .78, whenever the term "teenage parent" is used, it means a custodial parent 16 or 17 years of age, who does not possess a high school diploma or its equivalent and who is not exempt, or whose sole reason for exemption would have been having a child under three. The provisions of Sections 42-772.74 through .78 are not required for voluntary participants.

.74 For a teenage parent 16 or 17 years of age, the participant contract shall meet the requirements for the participant contract in Section 42-771 and shall also include all of the following:

.741 A determination of the individual's need for intensive case management services, as specified in Section 42-772.76, and the method of providing needed services.

.742 A detailed education plan written by the local school district.

(a) When the education plan has been written, the CWD shall verify its completion and shall document such verification in the case record.

(#b) The involvement of the parent(s) or legal guardian of the teenage parent in the development of the education plan shall be encouraged, as appropriate.

HANDBOOK BEGINS HERE

(b~~c~~) The education plan will not require any additional activities from the school district beyond those already required when a student who has dropped out of school indicates a desire to resume attendance. The plan will be developed by the school district with the participant in consultation with the County Welfare Department. It will contain the following:

(1) A description of the education program that the participant will be required to follow, including vocational training and preparation that may be available through local education and training agencies.

(2) Courses and services that the school district currently offers to students, including child care, child development and parenting education, homemaking, or other consumer education, life skills courses, and counseling and guidance services, as appropriate for each student.

HANDBOOK ENDS HERE

.75 GAIN supportive services shall be limited to those that are necessary to enable the teenage parent to complete the education plan in Section 42-772.742 and shall not be available for the participant's use of community health and social services.

.76 Case management services and counseling shall be provided to teenage parents as needed to assist their participation in GAIN. Parents who began participation in GAIN before the age of 18 may continue to receive these case management and counseling services, as needed, after the age of 18 until they obtain a high school diploma or equivalent, so long as they continue to participate in the GAIN Program.

HANDBOOK BEGINS HERE

(a) Case management services include the following:

(1) Designing a realistic GAIN plan that maximizes the ability of each teenage parent to reach his/her goal.

(2) Providing referrals to appropriate community services needed to assist the teenage parent's successful return to school.

(3) Monitoring each teenage parent's progress and making the necessary changes to improve his/her program.

(4) Acting as a counselor, colleague, and role model so that each teenage parent has someone to trust and to turn to for advice, guidance, and ideas.

(5) Providing intensive counseling during all phases of a teenage parent's progress through GAIN.

(6) Ensuring that each teenage parent understands the consequences of not returning to school as required by GAIN.

HANDBOOK ENDS HERE

.761 Case managers assigned to assist teenage parents shall possess an expertise in understanding the education, training, and other social and health service needs of teenage parents, as well as the local programs that provide these services.

.762 Case managers assigned to assist teenage parents shall be afforded sufficient time to provide the needed education and supportive services.

.763 Case managers shall make reasonable efforts to contact and counsel teenage parents who they believe are in danger of failing or refusing to comply with program requirements without good cause and shall inform the teenage parent of the consequences of noncompliance. (See Section 42-781.1). Case managers shall make reasonable efforts to secure a face-to-face meeting with the teenage parent before a cause determination is made.

.77 Counties shall be permitted to contract for the provision of case management services specified in Section 42-772.76. Agencies with which the county may contract shall be limited to public or nonprofit agencies that administer services under the Adolescent Family Life Program (as authorized by Article 3.2 [commencing with Section 309.100] of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), school districts, or other public or nonprofit agencies approved by the department.

.771 Contracting with an Adolescent Family Life Program shall be deemed to fulfill the case management requirements of Section 42-772.76.

.772 If a county chooses to contract for case management services, the county shall maintain one or more liaison staff members who have expertise in the special needs of teenage parents.

.78 A teenage parent who is required to participate in GAIN, and who fails or refuses to comply with program requirements, shall be subject to the conciliation and sanction provisions of Sections 42-781 and 42-786.

.781 If the teenage parent is not emancipated and is living with his/her parent(s) or legal guardian, the parent(s) or legal guardian shall also be notified of the teenage parent's failure or refusal to comply with program requirements, as specified in Sections 42-781.213, .412 and .812.

.79 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11310(b)(6)(B), (d) and (e), 11330, 11330.1, 11330.2, 11330.4, 11330.5, 11330.6, 11330.8 and 11330.10, Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; and 45 CFR 250.32(a)(1) and (3)(ii) and 45 CFR 255.2(a) and (c).

Amend Section 42-774.14 to read:

42-774 PARTICIPANT CONTRACT AMENDMENTS (Continued)

42-774

.1 (Continued)

.14 That needed supportive services shall be provided to the participant. (See Section 42-750.)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 42-774.2 to read:

42-774 PARTICIPANT CONTRACT AMENDMENTS (Continued)

42-774

.1 (Continued)

.2 Any individual who remains unemployed after meeting the criteria established for successful completion of the assigned training or education services agreed to in .1 above, shall be referred to job search services for a period of 90 days. These job search services may include any of the services under Section 42-730.2, depending on the participant's needs. The contract shall be amended to reflect the assignment to job search services, and the provision of supportive services. Job search activities during this 90-day period shall not be subject to the 40-day time limitation specified in Section 42-730.272.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11325.8(a), Welfare and Institutions Code, and 45 CFR 250.60(d).

Amend Section 42-781.1 to read:

42-781 CAUSE DETERMINATION AND CONCILIATIONS

42-781

.1 Before sanctions (Section 42-786) are applied, the CWD shall determine if there is good cause and attempt to resolve the problems when an individual who is required to enter into a participant contract or who volunteers to participate in the program fails or refuses to comply with program requirements. Failing or refusing to comply with program requirements is limited to:

.11 Failing or refusing to enter into a participant contract.

.111 (Continued)

.12 Failing or refusing to participate in any assigned program activity.

.13 Failing or refusing to accept a job offer or a job referral.

.14 Terminating employment

.141 This includes an individual who is non-exempt, who becomes employed for 30 or more hours per week after receiving written notice of registration as specified in Section 42-760.4 and who remains on aid. Such individual shall be considered to have failed or refused to comply with program requirements if he/she terminates the employment without good cause.

.15 Reducing earnings

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 250.34(a), FSA-JOBS-90-3 (Federal Action Transmittal); and Welfare and Institutions Code Section 11327.4, AB 312, Chapter 1568, Statutes of 1990.

Reletter existing Sections 42-781.211(e)(i), and (j) to 42-781.211(f)(j) and (k) respectively; and amend Section 42-781.2 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 The CWD shall give the individual an opportunity to demonstrate that he/she had good cause for the failure or refusal to comply with program requirements.

.21 The CWD shall send the individual a written appointment notice to meet and discuss the reason(s) for the failure or refusal. The CWD shall make reasonable efforts to send this notice at least six working days prior to the scheduled interview. The interview for determination of cause shall be scheduled to occur within ten working days of the discovery of the refusal or failure.

.211 The notice shall contain the following information:

- (a) A statement that the interview is to determine if the individual had good cause for not complying with program requirements.
- (b) A description of the program requirement(s) with which the individual failed or refused to comply.
- (c) A statement that the individual has the right to demonstrate why he/she failed or refused to comply with program requirements.
- (d) The consequence of failing to keep date, time and location of the scheduled interview.
- (e) A statement that transportation and child care services are available if needed in order to attend the interview.
- (f) A listing of what may constitute good cause for failing or refusing to comply with program requirements.

(g) A statement that, after the cause determination has been made, the individual has the right to a conciliation period that shall not exceed 30 calendar days if the CWD finds that the failure or refusal to comply with program requirements was without good cause.

(h) The individual's right to reschedule the cause determination interview once, provided the request for reschedule is made prior to or within one working day following the scheduled interview.

(i) A statement that the individual's failure to either attend the cause determination interview or reschedule this interview shall result in a cause determination in his/her absence, based on available information.

(j) The names, telephone numbers, and addresses of the local legal services office and welfare rights office, or the Coalition of California Welfare Rights Organizations if there are no welfare rights or legal aid offices in the county, which could assist the individual with the cause determination and with conciliation.

(k) The consequences of the individual's failure to resolve the dispute by the end of the 30-calendar-day conciliation period.

.212 At the time of the cause determination interview the CWD shall review with the individual his/her rights, duties, and responsibilities as described in Section 42-760.4.

- .213 If the individual who fails or refuses to comply with program requirements is an unemancipated 16 or 17 years old custodial parent as described in Section 42-772.73 who lives with his/her parent(s) or legal guardian, the CWD shall also send a notice to the individual's parent(s) or legal guardian.

The parent(s) or legal guardian shall be allowed to attend any meetings between the CWD and the teenage parent that are designed to encourage the noncooperating teenage parent to participate.

- .22 If the individual contacts the worker prior to or within one working day following the scheduled interview to request a rescheduling, the individual shall be permitted one reschedule of the cause determination interview. This rescheduled interview shall take place within 10 working days of the initially scheduled appointment, unless delayed by extenuating circumstances.
- .23 The CWD shall be permitted to conduct telephone interviews to accomplish the cause determination if the CWD determines it is appropriate and the individual agrees.
- .24 If the individual does not keep the appointment for the cause determination interview or otherwise contact the CWD, a cause determination shall be made from available information.
- .25 A cause determination shall be made within 20 working days from the date of the discovery of the failure or refusal to comply with program requirements, unless delayed by extenuating circumstances which shall include:

- .251 Delay of the initial cause determination interview required in Section 42-781.21 due to insufficient time to issue the notice required in that section at least six working days prior to the scheduled interview.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4(b) and (d) and 11330.10(c), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-781.3 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 If the CWD determines, based on the criteria specified in Section 42-782, that good cause existed for the failure or refusal to comply with program requirements, the county shall notify the individual in writing of this determination and, as necessary:

.31 (Continued)

.32 (Continued)

.33 (Continued)

.34 Determine if temporary deferral is appropriate (Section 42-761.74).

.35 Determine if exemption is appropriate (Sections 42-789 through 42-799).

.36 Amend the participant contract as appropriate.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11327.4(b), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-781.4 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 If the CWD determines that no good cause existed for the failure or refusal to comply with program requirements, the CWD shall conduct conciliation.

.41 The CWD shall schedule an appointment at which the CWD and the individual shall attempt to reach agreement on program participation and resolve any problems that are contributing to the failure or refusal to comply with program requirements. The CWD shall issue a written notice informing the individual of the results of the good cause determination and of the conciliation appointment. The notice shall be issued within five working days of the cause determination, unless delayed by extenuating circumstances. The 30 calendar day conciliation period begins on the date the CWD issues the notice informing the individual of the conciliation appointment.

.411 The notice that begins conciliation shall be issued at least six working days prior to the scheduled appointment and shall contain all of the following:

(a) A statement that the individual has been determined to be without good cause for the failure or refusal to comply with program requirements.

- (b) A description of the program requirement(s) with which the individual failed or refused to comply.
- (c) A statement that the individual has entered into a period of conciliation that shall not exceed 30 calendar days.
- (d) The date, time and location of the scheduled conciliation appointment.
- (e) The individual's right to reschedule the conciliation appointment once.
- (f) A statement that transportation and child care services are available if needed in order to attend the appointment.
- (g) A statement that the purpose of the appointment is to attempt to resolve any problems which have contributed to the noncompliance and to reach agreement on program participation.
- (h) A proposed conciliation plan which outlines the terms under which the individual may begin or resume program participation and bring the conciliation process to an end.
- (i) The individual's right to offer a counter-proposed conciliation plan, which the CWD may approve in whole or in part.
- (j) The names, telephone numbers, and addresses of the local legal services office and welfare rights office, or the Coalition of California Welfare Rights Organizations if there are no welfare rights or legal aid offices in the county, which could assist the individual with conciliation.
- (k) The consequences of the individual's failure to resolve the dispute by the end of the 30-calendar-day conciliation period.

- .412 If the individual who fails or refuses to comply with program requirements is an unemancipated 16 or 17 years old custodial parent as described in Section 42-772.73 who lives with his or her parent(s) or legal guardian, the CWD shall also send a notice to the individual's parent(s) or legal guardian.

The parent(s) or legal guardian shall be allowed to attend any meetings between the CWD and the teenage parent that are designed to encourage the noncooperating teenage parent to participate.

- .413 The appointment for conciliation specified in Section 42-781.41 may be held immediately following the cause determination interview specified in Section 42-781.21 if both of the following conditions are met:

- (a) Both the individual and the CWD agree to this arrangement; and
- (b) The notice required in Section 42-781.41 is issued before the conciliation appointment begins.

- .42 If the individual contacts the worker to request a rescheduling, the individual shall be granted one reschedule of the conciliation appointment.
- .43 The CWD shall be permitted to conduct the conciliation appointment by telephone if the CWD determines it is appropriate and the individual agrees.
- .44 The CWD shall attempt to contact by telephone those individuals who fail to attend the conciliation appointment to discuss those issues which have contributed to noncompliance and to reach agreement on program participation.
- .441 The CWD shall issue a written notice in accordance with Section 42-781.44 to those individuals who do not have a telephone or who cannot be reached by phone.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4 and 11327.10(c), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-781.5 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 Any issue that directly affects the individual's failure or refusal to comply with the program requirements under consideration may be discussed during conciliation. This includes providing further information demonstrating good cause for the failure or refusal to comply with program requirements.

.51 Those who attend the conciliation appointment or are otherwise contacted by the CWD during conciliation shall be informed of the right to request that a supervisor review the determination of no good cause.

.52 If, as a result of a supervisor's review and/or the individual's provision of additional information, the determination of no good cause is reversed, the CWD shall issue a written notice which sets forth the determination of good cause and informs the individual that conciliation has been terminated. The CWD shall take necessary steps to assist the individual to resume participation in accordance with Sections 42-781.31 through .36. The CWD shall also issue a written notice when a determination of no good cause is upheld by a supervisor.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11327.4(e), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Relocate and renumber existing Section 42-781.7 to 42-781.6 then amend existing Section 42-781.6 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 The conciliation period shall not exceed 30 calendar days.

.61 Either the individual or the CWD shall be permitted to terminate conciliation before the end of the 30 calendar day period if one of the following conditions is met:

.611 Both the individual and the CWD agree, in writing, to terminate conciliation.

.612 The determination of no good cause is reversed.

.613 The individual successfully fulfills the terms of the conciliation plan.

.62 An extension of the conciliation period for 10 calendar days shall be available upon agreement in writing by the individual and the CWD only if both of the following conditions are met:

- .621 The individual has made a reasonable effort to conciliate during the initial 30 calendar day period and significant progress has been made toward a resolution of the dispute; and
- .622 The CWD believes that an additional 10 calendar days of conciliation is likely to lead to agreement between the individual and the CWD on a conciliation plan.
- .63 When the noncomplying individual is a parent in a family whose sole basis of deprivation is the unemployment of the principal earner and the spouse or second parent is not participating in GAIN, the spouse or second parent shall be notified in writing, at the beginning of conciliation, of his/her opportunity to participate in GAIN. The notice shall explain the impact of his/her participation on any financial sanction.
- .631 If the spouse or second parent is under his/her own sanction at the time of the notice required in Section 42-781.63, the spouse or second parent shall be informed that he/she cannot participate until his/her sanction has been cured or completed.
- .64 (Continued)
- .65 (Continued)
- .66 Regardless of whether a spouse or second parent would otherwise be excluded due to a County's priority for providing services (Section 42-720.6), a spouse or second parent who chooses to participate shall be allowed to do so.

Authority Cited: Sections 10553, and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4 and 11327.5(c)(1), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-781.7 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 (Continued)

.7 When, during the period of conciliation, the individual and the CWD reach agreement on program participation, a written conciliation plan which reflects this agreement shall be entered into and signed by the individual and the CWD. If the individual subsequently fulfills the terms of the conciliation plan, conciliation shall be considered successful.

.71 The conciliation plan shall specify that the individual must complete the agreed upon activity which ~~may include~~ is limited to one of the following:

.711 Attending orientation or appraisal activities.

.712 Signing the participant contract(s).

.713 Participating in a program component(s) as specified in Section 42-730.

(a) A conciliation plan may require participation in a program component until the component is completed or for a period of two consecutive calendar weeks, whichever is shorter.

.714 Accepting a job offer or job referral which is consistent with the employability plan.

.715 Participating as necessary to remedy termination of employment or reduction of earnings.

HANDBOOK BEGINS HERE

Where possible, the conciliation plan should reflect the act of noncompliance which brought about the need for conciliation (see Section 42-781.1).

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11327.4, Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-781.8 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

- .1 (Continued)
- .2 (Continued)
- .3 (Continued)
- .4 (Continued)
- .5 (Continued)
- .6 (Continued)
- .7 (Continued)
- .8 If the individual subsequently fails or refuses to fulfill the terms of an agreed-upon conciliation plan as specified in Section 42-781.7, the CWD shall give the individual an opportunity to demonstrate that he/she had good cause for failing or refusing to fulfill the terms of the conciliation plan.
- .81 The CWD shall issue the individual a written appointment notice to meet and discuss the problem. The appointment shall be held within 10 working days of the discovery of the failure or refusal to meet the terms of the agreed-upon conciliation plan, unless the CWD is delayed by extenuating circumstances, which shall include insufficient time to issue the notice required in Section 42-781.81 at least six working days prior to the scheduled appointment.
- .811 The notice shall contain the following information:
 - (a) A statement that the appointment is to determine if the individual had good cause for not complying with the terms of the conciliation plan.
 - (b) A description of the conciliation plan requirement(s) with which the individual failed or refused to comply.

- (c) A statement that the individual has the right to demonstrate why he/she failed or refused to comply with the terms of the conciliation plan.
- (d) The date, time and location of the scheduled appointment.
- (e) A statement that transportation and child care services are available if needed in order to attend the appointment.
- (f) A listing of what may constitute good cause for failing or refusing to comply with the terms of the conciliation plan.
- (g) A statement that the individual's failure to attend this appointment shall result in a cause determination in his/her absence, based on available information.
- (h) The names, telephone numbers, and addresses of the local legal services office and welfare rights office, or the Coalition of California Welfare Rights Organizations, if there are no welfare rights or legal aid offices in the county, which could assist the individual with this cause determination.
- (i) A statement that the individual shall be subject to sanctions if he/she is found to be without good cause for not complying with the terms of the conciliation plan.

.812 If the individual who fails or refuses to comply with program requirements is an unemancipated 16 or 17 years old custodial parent as described in Section 42-772.73 who lives with his or her parent(s) or legal guardian, the CWD shall also send a notice to the individual's parent(s) or legal guardian.

The parent(s) or legal guardian shall be allowed to attend any meetings between the CWD and the teenage parent that are designed to encourage the noncooperating teenage parent to participate.

.82 If the individual fails to attend the appointment, the CWD shall make a cause determination in his/her absence, based on available information.

.83 If the CWD determines that good cause existed for the failure or refusal to fulfill the terms of the agreed-upon conciliation plan, the CWD shall take necessary steps to assist the individual to begin or resume participation in accordance with the conciliation plan.

.831 Nothing in Section 42-781.83 shall preclude deferral or exemption as appropriate (See Sections 42-761.4 and 42-789 through 42-799).

~~.84~~ If the CWD determines that no good cause existed for the failure or refusal to fulfill the terms of the agreed-upon conciliation plan, the individual shall be subject to sanctions specified in Section 42-786.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4 and 11330.10(c), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Section 42-781.9 to read:

42-781 CAUSE DETERMINATION AND CONCILIATION (Continued) 42-781

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 (Continued)

.7 (Continued)

.8 (Continued)

.9 If, at the end of the 30 calendar day conciliation period, the individual continues to fail or refuse to comply with program requirements, the CWD shall follow the procedures in Section 42-786 for sanctions.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11327.4(i), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Sections 42-782.1, .2 and .3 to read:

42-782 GAIN GOOD CAUSE CRITERIA

42-782

- .1 Good cause for failing or refusing to comply with program requirements as specified in Section 42-781.1 shall include any of the following: (Continued)

(a) through (h) (Continued)

- (i) Licensed or exempt child care is not reasonably available during the individual's hours of training or employment, including commuting time; or child care is needed for a child who meets the criteria of Section 42-750.22, but who does not meet the criteria of Section 42-750.21, and therefore is not eligible for GAIN paid child care.

(1) (Continued)

(A) (Continued)

(B) (Continued)

- (2) The choices of ~~day~~ child care shall meet the requirements specified in Section 42-750.31.

(j) through (m) (Continued)

- (n) Any of the deferral criteria specified in Section 42-761.4(a) through (p), or the exemption criteria specified in Sections 42-789 through 42-799.

- (o) At the discretion of the CWD, any substantial and compelling reasons other than those specified in this section.

- .2 No sanction shall be applied, and no cause determination is required, for any participant who, during a month, is absent or tardy within the provider's standard for absence or tardiness, or if there is no provider standard, who is absent or tardy up to ten percent of the monthly hours required for any component.

.21 Participants shall not be permitted to accumulate unused hours past the end of each month.

.3 For purposes of "terminating employment or reducing earnings", good cause shall include any of the following:

(a) Any of the criteria specified in Sections 42-782.1 and 42-783.1.

(b) The individual was forced to retire.

(c) The individual was laid off or the company cut back staff.

(d) Relocation of the family which results in a commute time which exceeds that specified in Section 42-783.1(b).

(e) The individual was denied equal employment opportunities.

(f) The individual was sexually harassed on the job.

(g) The employer did not:

(1) Have the appropriate operating licenses as required by federal, state or local ordinances; or,

(2) Withhold the unemployment insurance or disability insurance required by law.

(h) The employment presents a danger of substantial injury or death.

(i) The individual accepted a job offer even if he/she was not hired by the employer who offered the job.

(j) At the discretion of the CWD, any substantial and compelling reason other than those specified in this section.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.2(a), 11325, 11328(a)(12) and (14) and (i) and 11328.1, Welfare and Institutions Code, AB 312, Chapter 1568; Statutes of 1990; and 45 CFR 250.35(d) and 255.2(a).

Amend Section 42-783.1 to read:

42-783 CRITERIA FOR DETERMINING APPROPRIATENESS
OF GAIN WORK AND TRAINING

42-783

.1 (Continued)

(a) (Continued)

(b) Requires travel between the place of employment or training and one's home that exceeds a total of two hours round trip, or two miles round trip when walking, is the only available means of transportation, or requires the individual to remain away from home overnight without his/her consent. (Continued)

(c) through (d) (Continued)

(m) The ~~employment~~ offer of employment is at a wage level that results in a net loss of income, as specified in Section 42-784.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11328(a)(14), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Sections 42-784.4 and .5 to read:

42-784 METHOD OF DETERMINING NET LOSS OF INCOME FOR
GAIN GOOD CAUSE CRITERIA (Continued)

42-784

.1 (Continued)

.2 (Continued)

.3 (Continued)

.4 (Continued)

.42 (Continued)

.422 Child care expenses, including any share of cost for individuals who are eligible for transitional child care (TCC).

(a) (Continued)

(b) To determine the amount of a TCC share of cost, see Section 47-130. (Continued)

.43 To the amount determined in Section 42-784.42, add any unearned income that is not exempt under Section 44-111.

.431 (Continued)

.44 If the family would remain eligible for aid, add the amount of cash assistance that would be received if the job were accepted to the amount determined in Sections 42-784.42 and 42-784.43.

.441 For purposes of this section, the AFDC one third disregard shall be excluded when determining the amount of cash assistance.

HANDBOOK BEGINS HERE

.5 Examples

.51 The participant's assistance unit consists of a single mother and two children, one of whom needs child care. The assistance unit is receiving a maximum aid payment (MAP) of \$694* per month and has no net nonexempt income.

* All amounts are for illustration purposes only.

The participant is offered a job that pays \$750 per month, which is insufficient to immediately make the family ineligible for aid, as it does not exceed 185% of the minimum basic standard of adequate care (MBSAC). Mandatory deductions are estimated to be \$150 per month; child care is estimated to be \$250 per month; and transportation is estimated to be \$100 per month. The participant is not eligible for TCC because the grant calculation, excluding the one third disregard, does not make the family ineligible for aid. Because the family remains eligible for aid, the estimated child care cost will be used in the NLI computation as the participant is not eligible for TCC.

The AFDC grant, excluding the one-third disregard, is calculated as follows:

Gross earnings from job offered	\$ 750
- Standard work expense disregard	- 90
- \$30 disregard	- 30
- Child care disregard for one child	-175
+ Net income	<u>+ 0</u>

TOTAL NET INCOME	\$ 455
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MAP for a family of three	\$ 694
- Net income	<u>-455</u>

TOTAL NEW GRANT	\$ 239
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The calculation for post-employment income, to determine if a net loss of income exists, is:

Current Income	\$ 694
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Gross earnings from job offered	\$ 750
- Mandatory deductions	-150
- Actual child care	-250
- Transportation	-100
+ Net nonexempt income	+ 0
+ Cash grant	<u>+239</u>

TOTAL	\$ 489
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HANDBOOKS CONTINUES

Because the post-employment income of \$489 per month is less than the current income of \$694 per month, the participant is not required to accept the job as it result in a net loss of income.

- .52 The participant's assistance unit consists of a single mother and two children, one of whom needs child care. The assistance unit has unearned income of \$50 per month and receives an aid payment of \$644.

The participant is offered a job that pays \$1100 per month, which is insufficient to immediately make the family ineligible for aid, as it does not exceed 185% of MBSAC. Mandatory deductions are estimated to be \$220 per month; child care is estimated to be \$250 per month; transportation is estimated to be \$100 per month. The participant is eligible for TCC because the grant calculation, excluding the one-third disregard, makes the family ineligible for aid. Because the family does not remain eligible for aid, the TCC share of cost will be used in the NLI calculation.

The AFDC grant, excluding the one-third disregard, is computed as follows:

Gross earnings from job offered	\$1100
- Standard work expense disregard	- 90
- \$30 disregard	- 30
- Child care disregard for one child	-175
+ Unearned income	+ 50
TOTAL NET INCOME	\$ 855
MAP for a family of three	\$ 694
- Net income	-855
TOTAL NEW GRANT	\$ 0

The calculation for post-employment income, to determine if a net loss of income exists, is:

Current Income	\$ 694
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HANDBOOK CONTINUES

Gross earnings from job offered	\$1100
- Mandatory deductions	-220
- TCC share of cost	- 21
- Transportation	-100
+ Net nonexempt income	+ 50
+ Cash grant	+ 0
TOTAL	\$ 809

Because the post-employment income of \$809 per month exceeds the current income of \$694 per month, the participant is required to accept the job, as there is no net loss of income.

- .53 The participant's assistance unit consists of a single mother and two children, one of whom needs child care. The assistance unit is receiving a MAP of \$694 per month and has no net nonexempt income.

The participant is offered a job that pays \$1300 per month, which immediately makes the family ineligible for aid, as it does exceed 185% of the MBSAC. The participant is not eligible for TCC because she has not received aid for three of the past six months; therefore, estimated child care costs will be used in the NLI calculation. Mandatory deductions are estimated to be \$260 per month; child care is estimated to be \$250 per month; and transportation is estimated to be \$100 per month.

A grant calculation is not required because the family is immediately ineligible for aid.

The calculation for post-employment income, to determine if a net loss of income exists, is:

Current Income	\$ 694
Gross earnings from job offered	\$1300
- Mandatory deductions	-260
- Actual child care	-250
- Transportation	-100
+ Net nonexempt income	+ 0
+ Cash grant	+ 0
TOTAL	\$ 690

HANDBOOK CONTINUES

Because the post-employment income of \$690 per month is less than the current income of \$694 per month, the participant is not required to accept the job as there is a net loss of income.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11328(k), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; and 45 CFR 250.35(c).

Amend Sections 42-786.1 and .2 to read:

42-786 GAIN SANCTIONS

42-786

.1 Financial sanctions shall be applied when a mandatory participant fails or refuses to comply with program requirements without good cause and conciliation efforts have failed. (See Section 42-781.1)

.2 (Continued)

.21 For purposes of determining the appropriate sanction to apply, an instance of non-compliance without good cause is considered to have occurred when a sanction notice of action has been sent.

.211 If a sanction is subsequently rescinded, the instance of non-compliance without good cause is disregarded.

.22 The first instance of noncompliance without good cause shall result in a financial sanction which shall continue until the individual agrees to participate by signing a participant contract, or by participating in the required activity in which he/she previously refused to participate.

.23 The second instance of noncompliance without good cause shall result in a financial sanction which shall continue for three months, or until the individual agrees to participate by signing a participant contract or by participating in the required activity in which he/she previously refused to participate, whichever is longer.

.24 The third or subsequent instance of noncompliance without good cause shall result in a financial sanction which shall continue for six months, or until the individual agrees to participate by signing a participant contract or by participating in the required activity in which he/she previously refused to participate, whichever is longer.

.25 (Continued)

.251 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.4(j) and 11327.5(d), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Amend Sections 42-786.3, .4, and .7 to read:

42-786 GAIN FINANCIAL SANCTIONS

42-786

.1 (Continued)

.2 (Continued)

.3 (Continued)

.311 A parent or caretaker relative in a family whose basis of deprivation is the absence or incapacity of a parent, his/her aid shall be discontinued, and aid shall be continued to the remainder of the family (refer to Section 42-786.5 and Section 44-309 for protective payments); or

.312 (Continued)

.313 The only eligible child in the assistance unit, aid shall be discontinued for only that child and aid shall be continued to the remainder of the family; or

.314 (Continued)

(a) For purposes of this section, full-time employment of at least 40 hours per week at minimum wage or above shall satisfy the participation requirement for the spouse or second parent as specified in Section 42-786.314.

(b) For purposes of this section, neither the exemption criteria specified in Sections 42-789 through 42-799 nor the deferral criteria specified in Section 42-761.4 apply to the spouse or second parent.

(c) (Continued)

(d) (Continued)

(e) (Continued)

(f) (Continued)

- (g) If the spouse or second parent chooses to participate and subsequently fails or refuses to comply with program requirements, prior to the reinstatement of the sanctioned first parent, aid for the spouse or second parent shall be discontinued. This discontinuance shall be effective the first day of the first payment-month, following the date of the noncooperation and the County's timely notice and shall continue until the first parent has cured his/her sanction.

(1) The following provisions do not apply to a spouse or second parent who chooses to participate to avoid the first parent's sanction and subsequently fails or refuses to comply with program requirements:

- (A) exemptions as specified in Sections 42-789 through 42-799;
- (B) deferrals as specified in Section 42-761.4;
- (C) conciliation as specified in 42-781; and
- (D) good cause as specified in Sections 42-782 through 42-784.

.4 (Continued)

.41 (Continued)

.42 If an individual sanctioned under Section 42-786.22 agrees to participate by signing a participant contract, or by participating in the required activity in which he/she previously refused to participate during the period of timely notification, no sanction shall be imposed.

.5 (Continued)

.6 (Continued)

.7 (Continued)

- .71 If a volunteer participant who is a member of a group listed under Section 42-720.635 engages in conduct which would result in sanctions for a mandatory participant, the individual shall not be given priority so long as other individuals are actively seeking to participate.
- .72 If any other volunteer participant engages in conduct which would result in sanctions for a mandatory participant, the individual shall be precluded from participating in the program for a six-month period.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11327.5(b), (c)(1)(A) and (B), (2) and (3) and (d), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; 45 CFR 250.34(c)(2) and (3) and 54 FR 42173, October 13, 1989.

Adopt new Sections 42-788.1 and .2 to read:

42-788 EXEMPTIONS

42-788

- .1 Applicants for and recipients of Aid to Families with Dependent Children (AFDC) who meet any of the criteria specified in Sections 42-789 through 42-799 are exempt from registration for and participation in the Greater Avenues for Independence (GAIN) program.
- .11 Such individuals may volunteer to participate in GAIN.
- .2 Counties shall promptly notify such individuals when:
 - .21 Their status changes from exempt to mandatory (see Section 42-760.4); or,
 - .22 Their status changes from mandatory to exempt.
 - .221 In the case of an individual whose status changes from mandatory to exempt, the individual's case manager shall also be notified.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11310(b) and (c) and 11320.4(a), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; 45 CFR 250.30(a) and (c)(2) and 45 CFR 250.31.

Amend Section 42-790.1 to read:

42-790 EXEMPTION BASED ON SCHOOL ATTENDANCE (CODE 02)

42-790

.1 The Exemption

An individual 16, 17, or 18 years of age is exempt when he/she is attending full-time, a school in grade twelve or below, or vocational or technical school. An individual who is 16 or 17 years old or a custodial parent under 20 years old described in Section 42-772.7 who loses this exemption shall not requalify for the exemption by attending school as a required activity in GAIN.

.11 (Continued)

.12 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11310(b)(2), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; and 45 CFR 250.30(b)(1)(ii).

Amend Section 42-792.1 to read:

42-792 EXEMPTION BASED ON AGE 60 OR OLDER
(CODE 04)

42-792

.1 The Exemption

All individuals age 60 or older are exempt from GAIN
registration. (Continued)

.2 (Continued)

.3 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: 45 CFR 250.30(b)(4).

Amend Section 42-793.1 to read:

42-793 EXEMPTION BASED ON INCAPACITY (CODE 05)

42-793

.1 The Exemption

An individual is exempt from GAIN registration based on incapacity when it is verified that: (a) the individual has a physical or mental impairment which prevents the individual from engaging in employment or training; or (b) the individual is under age 20, does not possess a high school diploma or equivalent, and her physician prescribes a specified period of postpartum recovery.

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11310(d)(3), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; and 45 CFR 250.30(b)(3).

Amend Section 42-794.1 to read:

42-794 EXEMPTION BASED ON REMOTENESS (CODE 06)

42-794

.1 The Exemption

An individual is exempt when he/she is residing in a location which is so remote from a GAIN program activity that his/her effective participation in GAIN is precluded.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11310(b)(4), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990.

Adopt new Sections 42-799.1, .2 and .3 to read:

42-799 EXEMPTION BASED ON VISTA PROGRAM PARTICIPATION
(CODE 11)

42-799

.1 The Exemption

An individual is exempt if he/she is a full-time volunteer in the Volunteers in Service To America (VISTA) Program, as provided by Title I of the Federal Domestic Volunteer Act of 1973.

.2 Documentation

This exemption is supported by either of the following:

- .21 A copy of a Domestic Volunteer Earnings Statement.
- .22 A written verification from the VISTA sponsor or the Federal Region IX ACTION/VISTA Office.

.3 Review

Review this exemption:

- .31 At the annual reinvestigation; and
- .32 Whenever the individual ceases participation in the VISTA Program.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11310(b)(9), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; and 45 CFR 250.30(b)(10), (c)(1)

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In the office of the Secretary of State
of the State of California

FEB 27 1991

At 4:09 o'clock P.M.

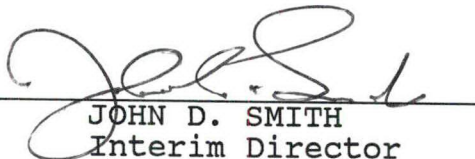
MARCH FONG EU, Secretary of State

By Michael R. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 91-0128-03


JOHN D. SMITH
Interim Director

02/27/91
